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ABSTRACT

This monograph on charter schools and reform contains four chapters. The first chapter ("The Unfinished Goal and the Role of Interest Groups") discusses the history of the charter movement, its role, benefits, shortcomings, and the opposition to the movement from teacher unions. Charter schools have attracted support across the political spectrum in theory; however, this support varies on the operational level. Charter schools cannot offer truly innovative programs because they remain bound to public authorities; they have to be more independent and less regulated than they are in many states. Chapter 2 ("California: The Uphill Battle") discusses California's dismal educational record during the 1990s and the struggle to enact charter legislation in the state. The most serious problem in California's new law was funding. All categorical funding had to be negotiated; however, individual charter schools received no money directly from the state. Instead, they had to rely on districts to distribute state funding. The chapter goes on to discuss state bureaucracy and union intransigence. Chapter 3 ("Arizona: The Free Market Model...With Strings Attached") compares Arizona's and California's education demographics, which are quite similar in many respects. However, there are important differences between the two states, principally surrounding right-to-work issues and the emergence of Arizona's charter-school laws that sought to avoid the difficulties encountered by California. The final chapter ("Charter Schools and the Failure of Real Competition") discusses teacher unions and their fight against deregulation; the chapter also describes the voucher system in several states, the disorganization of the charter movement, and the fact that the movement has yet to trigger significant responses from local school boards and other officials. (Contains 189 references.) (DFR)

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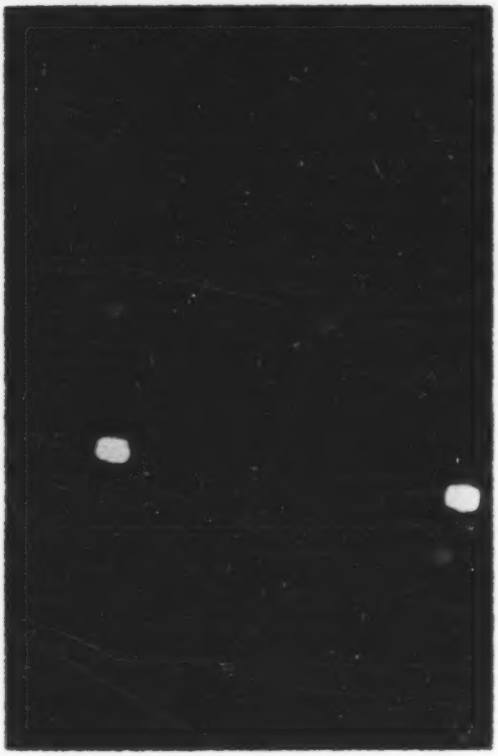

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By Thomas Dawson

October 1999

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Designed by Dawn Abou Khalil

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Chapter 1
The Unfinished Goal and the Role of Interest Groups

Donald Evans is like many other urban school principals. His school is located in the Ravenswood neighborhood of East Palo Alto, California, a poor community beset by crime, economic distress, and other problems. Most of Mr. Evans's students are African American, Latino, or Asian, and many come from broken homes where money is tight. Many students participate in the school lunch program or are beneficiaries of other types of government assistance. Academic performance in the Ravenswood school district has suffered in recent years. Like most poor urban school districts, Ravenswood has many problems and its students often lack the proper skills to advance to high school and beyond. Mr. Evans's school, however, is different.

He is the principal of the East Palo Alto Charter School, serving students in grades K-6. While most students attend public schools on the basis of where they live, parents choose Mr. Evans's school in hopes of giving their children an opportunity for a better education than they could find in the district's other public schools. Mr. Evans develops his own curricula and hires many teachers who are exempt from most state credentialing requirements. He has more freedom to offer a challenging and innovative education to his students than principals in conventional public schools. In its second year of operation, the school even boasted a waiting list.

Charter schools are deregulated public schools, free from most district and state oversight in exchange for meeting specific academic and financial standards over a fixed time period. The schools operate at public expense, and parents are free to choose them instead of sending their children to a standard public school.

The charter-school movement has attracted support from across the political spectrum, enjoying nearly universal support in theory. But it is another story on the operational level. In many states, charters cannot offer truly innovative programs because they remain bound to public authorities. If charters are to help improve public education, then they will have to be more independent and less regulated than they are in many states, where the surge in charter schools is based on the failures of the present system.[1]

Education Reform: Slow to Work

In recent years, parents, educators, policymakers, and business people have all decried failing test scores, overcrowded schools, incompetent teachers, and stifling bureaucracy. While these problems were obvious, solutions were another matter. Some complained that schools suffered from underfunding. Critics clamored for higher academic standards. Some argued that many teachers were unqualified and urged school boards to adopt stricter credentialing requirements. Others claimed that certain students, especially recent immigrants, needed at least some instruction in their native language.

The list of attempted education reforms is long and, for the most part, undistinguished. Politicians make vague policy statements supporting stricter standards and more local control without elaborating on what these proposals mean. Former California Governor Pete Wilson made class-size reduction a key piece of his education- reform agenda, funneling billions into various programs.

Table 1.
Percentage Distribution of Estimated Effect of Class Size on Student Performance (Based on 277 Studies)

	% of Studies
Statistically Significant	
Positive	15%
Negative	13%
Statistically Insignificant	
Positive	27%
Negative	25%
Unknown	20%

Source: Eric A. Hanushek, "Measuring Investment in Education," *Journal of Economic Perspectives* 10, No. 4 (Fall 1996), p. 17.

Unfortunately, evidence suggests class-size reduction does not work since there appears to be little correlation with student performance. University of Rochester economist Eric Hanushek compiled a series of estimates on the correlation between class size and student performance in grades K-12.

According to Hanushek, 85 percent of the studies revealed either a statistically negative or inconclusive relationship between class size and student performance.

Moreover, Hanushek finds that average K-12 class size fell from 25.6 in 1960-61 to 17.3 in 1990-91. During that same period, average per-pupil expenditures jumped from $1,903 (FY 1993 dollars) in 1960-61, to $5,582 in 1990-91.[2] There is little evidence to suggest that "adding more resources to schools as currently operating is likely to boost student achievement."[3]

Teacher unions and other advocates of higher spending maintain that a great deal of per-pupil funding is dedicated to special education costs, and that most students have been the beneficiaries of only modest increases in spending. This is only part of the story. In 1997, California spent approximately $3 billion on special-education programs and $11 billion on 70 separate programs known as categoricals, services not specifically related to classroom education. Categoricals made up almost one third of California's education budget in 1997.[4]

Critics, such as California Superintendent of Public Instruction Delaine Eastin, also complain that the state does not spend enough on education, ranking 37th in the nation in per-pupil expenditures. Since 1988, however, 40 percent of the state's general fund has been dedicated to K-12 education. In 1994, the national average was 31.5 percent.[5] The problem is not that governments are spending too little on education. Instead, they seem to be spending funds in the wrong areas.

Acording to a recent Federal Reserve Bank of Dallas study, total federal, state, and local government spending on elementary and secondary education exceeded $235 billion in 1994, or roughly 3.5 percent of Gross Domestic Product (GDP). Japan, Germany, and the United Kingdom, all countries where students perform better on

standardized tests than their American counterparts, spend less than three percent of GDP on elementary and secondary education.[6] While expenditures on public education in the United States have increased in the last 30 years, academic performance has fallen.

According to the National Assessment of Educational Performance (NAEP), between 1970 and 1994, only math performance improved slightly for 17-year olds. Reading performance is flat while science scores are down. Academic performance when compared with our industrial counterparts is particularly disturbing. In the early 1980s, only five percent of American students performed better in mathematics proficiency than the average Japanese student. In 1991, in math, Korean nine-year-olds performed on roughly the same level as American 13-year-olds. Overall, the United States placed below the average of the 39 countries that participated in standardized science and math examinations over the past quarter century. According to Hanushek, "performance of a country's population on such analytical tests has direct and strong implications for economic growth." He also finds that there are huge academic disparities in the United States, based on race and socioeconomic status, with minorities lagging far behind.[7] These are but a few examples of the problems facing reformers. There are no easy solutions; yet some experiments have proved more promising than others. Charter schools are one of the more popular reform developments, and are currently experiencing explosive growth.

Charter Schools and Interest Group Meddling

Former U.S. Assistant Secretary of Education Chester E. Finn, Jr. has referred to charters as offering "a genuine alternative to the status quo." Finn, who is now president of the Thomas B. Fordham Foundation, an education think-tank, goes on to say that charters "hold out the promise of many benefits," including "freer reign to creative, entrepreneurial, motivated educators." They welcome and encourage "more involvement by parents; they subject competing teaching methods and curricula to the judgment of education consumers," and provide a host of other possible advantages.[8]

The late Al Shanker, former president of the American Federation of Teachers (AFT), commented that charter schools can "free teachers to explore new teaching strategies by removing unnecessary rules and regulations."[9] Unfortunately, despite heralded successes, charters have faced their fair share of problems, which have limited their effectiveness.

Some problems are endemic to any new venture. Schools have faced difficulty with start-up costs and capital expenses. More threatening, however, are the artificial roadblocks. Each state drafts its own charter law. Strong legislation encourages accountability and independence, while weaker legislation binds charters to a public-school system that often discourages innovation. According to Al Shanker, "public education operates like a planned economy, a bureaucratic system in which everybody's role is spelled out in advance, and there are few incentives for innovation and productivity."[10]

The role of unions, school boards, and other parties that tend to oppose market-based reform has been crucial. In some states, these foes have largely failed to influence legislation, while in others they have practically controlled the process. Despite their proximity and similar student demographics, California and Arizona have had very different charter experiences. California passed its original charter law in 1992, the second state to do so. From the start, unions and their allies in state government and the public-school system have held significant influence over the charter process. As a result, charters have struggled to be independent, accountable, and innovative, and supporters have faced an uphill battle to improve the state's charter law.

Arizona, on the other hand, waited for several years before passing its charter law in 1995, trying to repeat the successes of some states while avoiding the problems of others. Arizona's law allows significant independence from the state's public-school bureaucracy. Charters have significant autonomy in developing curricula, setting standards, and attracting students. While California has struggled to get a large number of charters off the ground, Arizona has seen schools blossom all over the state. What accounts for the difference?

There are a host of distinctions, ranging from the states' different labor laws, to their political histories, to the tangible differences in their charter laws. The many differences between the charter experiences in these neighboring states offer education reformers a glimpse of the charter-school movement's future. If charter schools are to be effective vehicles for reform, advocates must try to duplicate Arizona's successes, while learning from California's pitfalls. While charters offer hope, the California experience should make reformers reflect on the limitations of charter schools as a viable public policy. Charter schools are just one of several market-based reforms.

The Education Marketplace

Beginning in 1962, with the publication of Milton Friedman's *Capitalism and Freedom*, many began to look at public education as a monopoly. According to Friedman, "Governments have financed schooling by paying directly the costs of running educational institutions. This step seemed required by the decision to subsidize schooling." He argued that the "two steps could be separated," by giving parents public money in the form of vouchers, enabling them to send their children to the school of their choice, rather than forcing families to enroll their children in public schools.[11]

From the idea's inception, foes have fought its implementation, arguing that vouchers violate the separation between church and state. Under the scheme, they said, students could take taxpayer money to pay for tuition or other expenses at religious schools. Some religious conservatives argue that vouchers will open religious schools to government oversight. In California, various Christian denominations operate a large number of private schools. Many are adamantly opposed to government intrusion or regulation of their schools and might reject any voucher plan that accepted more than minimal regulation of participating schools.[12]

Some argue that taxpayers should be allowed to invest or save some of their taxable income for education costs. During the last Congress, U.S. Senators Paul Coverdell (R-Georgia) and Robert Torricelli (D-New Jersey) cosponsored a bipartisan reform bill that included education savings accounts. Parents would have been able to invest up to $2,000 a year per child in tax-free, interest-earning accounts that could be used for a variety of K-12 education expenses. The bill won passage in the Senate, but President Clinton vetoed it in July 1998, only days after addressing the annual convention of the National Education Association (NEA), the nation's largest teacher union.[13] During the convention, the union approved a resolution criticizing tuition tax credits, such as the one the Senate had passed. The resolution claimed tax credits "undermine public education, reduce the support needed to adequately fund public education, and have the potential for racial, economic, and social segregation of children."[14] While the debate became more acrimonious, an important book began to receive attention.

In the 1988 book *Education by Charter*, Ray Budde, an education analyst with the Regional Laboratory for Educational Improvement of the Northeast and Islands, used the term "charter" to describe schools that gained autonomy and independence from government control in order to meet specific academic goals and standards, defined in a school's charter, a formal contract between the school and public authorities. The schools would be teacher-led and driven, with instructors and parents working together to develop the curricula. Al Shanker was intrigued by Budde's concept.

Charters allowed significant reform, including expanded choice, yet kept the experiment within the public arena. Vouchers, education savings accounts, and other ideas all involved losing students and money to private schools. Shanker promoted the charter idea during a trip to Minnesota in 1989. Democratic State Senator Ember Reichgott heard his speech and eventually sponsored a charter school bill in the state legislature. Minnesota passed the nation's first charter school law in 1991, allowing for up to eight charters.

While actual experimentation with vouchers has been limited, the number of charter schools has exploded in states all across the country. As the spring 1999 legislative sessions came to a close, 36 states, the District of Columbia, and Puerto Rico had all adopted charter legislation. In the 1999-2000 school year, there are 1,684 charter schools, enrolling 350,000 students in 32 states.[15] The largest teacher union, the NEA, has joined the AFT on the charter bandwagon, and President Clinton has included charter schools as a part of his education-reform agenda. His administration has set a goal of 3,000 charters in 40 states by 2002.[16]

Charters have strong potential, allowing parents, teachers, and students unprecedented control over directing their own public school. But that is not the only reason why they have nominal support from the education establishment. Charters are a way to head off vouchers and other private-sector proposals that would force the public sector to compete in an open market. While charters do introduce some competition into the public education market, allowing different constituencies to run schools and freeing some of them from

direct oversight, they are still public schools and authorities can keep a watchful eye on them.

Unions and their allies in the public school establishment can significantly influence and water down legislation on the state level, crafting charter laws that do not threaten their position and still allow them to exercise control over the education market. While possessing considerable potential, charters also represent a practical advantage to interest groups that stand to lose prestige, power, and money if more ambitious reform efforts take hold. To understand the role of teacher unions in crafting charter-school laws across the country, one should examine the roots of the nation's two largest unions and see how they gained their current level of political power.

The Past and Present of America's Teacher Unions

Founded in 1857, the NEA began as a professional association of teachers, administrators, and school superintendents. Administrators dominated the association's political agenda, even when teachers made up a majority of members. During its first century, the organization officially opposed collective bargaining.[17] In 1916, the AFT was founded on very different principles.

The AFT immediately affiliated itself with the American Federation of Labor, establishing itself as a union and focusing primarily on labor issues. The union supported collective bargaining, and directed its efforts toward improving teachers' and other school employees' wages, benefits, and workplace conditions. The AFT, however, struggled for years to compete with the more established and powerful NEA. The union had little success organizing large numbers of teachers, only increasing its membership at the same percentage as the growth of the teacher force. From the beginning, the AFT had a contentious relationship with the NEA.

Administrators tried to persuade teachers to join the NEA to keep them from bargaining collectively, a key part of the AFT's agenda. The icy relations between the professional NEA and the unionized AFT reached a peak in 1961. That year in New York City, the United Federation of Teachers (UFT), an AFT affiliate, managed to bring the issue of collective bargaining to a vote. The city's public school teachers not only overwhelmingly supported collective bargaining, but also chose the UFT as their sole representative.[18] The event signified a major change in relations between the NEA and AFT, with important consequences for public education.

Previously, the NEA enjoyed overwhelming support as an advocate for professionalism in public education. The association directed its attention toward improving the quality of the education profession, rather than narrowly focusing its attention on labor issues. The UFT vote altered the NEA's position. The NEA had fought for years against the implementation of collective bargaining for teacher contracts, only to see all of its hard work fail in New York. To add insult to injury, the NEA found itself an outsider in the nation's largest city, pushed to the sidelines as the UFT won the exclusive right to represent the city's teachers.

As the battle between the NEA and AFT extended to other cities and school districts, the NEA began to change its tactics. The organiza-

tion moved away from its focus on administrators and professional issues, and began to invest more resources on labor concerns. The group adopted a new constitution that assured teachers a majority in the organization's governance and began to look more and more like a labor union. Finally, in 1978, the Internal Revenue Service and the U.S. Department of Labor officially recognized the NEA as a union.[19]

Both unions sought to "raid" the other's affiliates, stealing teachers from one another. The majority of their efforts, however, was centered on winning over teachers who were not yet represented. The AFT had a lot of ground to make up. It intensely focused its resources on large urban districts, a strategy which had worked in New York. As a result, the AFT took the lead in representing teachers in urban areas, a position it still enjoys today.[20]

The NEA, on the other hand, focused its considerable resources, namely its powerful lobbying presence in state legislatures and deep pockets, on non-urban areas, and successfully won control of enough urban districts to keep the AFT on the defensive. Both unions, nevertheless, experienced tremendous growth. In 1961, the NEA had 766,000 members. By 1997, NEA membership tallied 2.2 million, an increase of 300 percent.

This increase understates the NEA's significant growth. In 1961, teachers could join the NEA without belonging to their state or local affiliate. By 1997, all NEA members had to join their state and local NEA affiliate. Thus, the power of state and local unions has also increased considerably. The AFT, on the other hand, had 70,821 members in 1961, a figure which had climbed to 947,000 by 1997.[21]

Despite this surge, the rise in teacher union membership bucked a national trend. Labor union participation rates have declined steadily over the last three decades, roughly the same period in which teacher unions have seen their ranks increase. U.S. private-sector union membership reached a peak of 17 million in 1970, and fell to 9.7 million by 1995. As a percentage of the non-agricultural private sector labor force, union membership has dropped from 36 percent in 1953 to 10.7 percent in 1995.[22] The growth of teacher unions and other public sector unions has placed them at the center of the U.S labor movement. Over the last fifteen years, the percentage of public-sector union members has remained relatively constant, while private-sector union percentages have continued to drop.

While private-sector unions have struggled of late, teacher unions have seen their power and prestige continue to climb. In 1996, the NEA sent 405 members to the Democratic convention, more than the total number of delegates from California.[23] Because of their political clout, especially within the Democratic Party, the NEA, and the AFT to a lesser degree, wield impact on policy not immediately related to education. For example, the unions impact health care, taxes, and immigration policy. While the union profile has declined overall, teacher unions have been very successful at enhancing their prominence and stature in the political arena. The unions' budgets have also ballooned during this period.

In 1960-61, the NEA's budget for its national office totaled $7.7 million. By 1995-96, the national budget stood at $186 million. The unions' financial power is even more pronounced at the state and local

Table 2.
Labor Union Membership by Sector from 1983 to 1997

Year	Public Sector	Private Sector
1983	36.7%	16.5%
1985	35.7%	14.3%
1990	36.5%	11.9%
1991	36.9%	11.7%
1992	36.6%	11.4%
1993	37.7%	11.1%
1994	38.7%	10.8%
1995	37.7%	10.3%
1996	37.6%	10.0%
1997	37.2%	9.7%

Source: U.S. Bureau of the Census, *Statistical Abstract of the United States: 1998* (Washington, D.C.: Government Printing Office, 1998), p. 444.

level. In fiscal year 1996-97, while NEA national revenues totaled $202 million, state revenues stood at $600 million, and local revenues topped out at $87.7 million. Total NEA revenue during that fiscal year was $889.7 million.[24]

AFT revenues for their national office totaled $86 million during the 1997 fiscal year. Estimated state federation revenues were $105 million and estimated local federation revenues reached $159.9 million. Total AFT revenues topped out at $350.9 million. The combined revenue of the nation's two largest teacher unions exceeded $1.2 billion in fiscal year 1997.[25] While unions are very well-financed, they also use other resources to disseminate their message.

In 1993, when a school voucher initiative, Proposition 174, gained a place on the ballot in California, the state's largest teacher union voted a special assessment on its 200,000 members solely to oppose the measure. The union had a goal of one million telephone calls by teachers, who volunteered for two- and four-hour shifts to campaign against the initiative. Teachers also drove voters to the polls, participated in walks, visits, and demonstrations, and sent out mailers predicting dire consequences if voters approved the proposition.[26] With such daunting resources, it is little surprise that the unions have been so successful, particularly at the state level.

The key to unions' political power is their ability to influence and represent teachers in collective bargaining agreements. These contracts cover a wide variety of issues, and differ depending on district and state. Collective bargaining can include such areas as negotiating labor contracts, impasse procedures, fact-finding, and arbitration. It may also address filing and processing grievances, research the terms and conditions of employment, and monitor and influence legal developments affecting union member rights, privileges, and responsibilities. In some cases, teachers are allowed to strike if the contracts are not to their liking.[27]

Harvard economist Caroline Hoxby has studied the effect of teacher unions on education production. In 1963, 93 percent of all school districts reported having a teachers' organization, but most of these groups operated in a purely advisory capacity. Only one percent of districts had collective bargaining agreements. By 1992, 54 percent of districts reported collective bargaining.[28] According to Hoxby, the growth of teacher unionization and collective bargaining "appears to increase school budgets and to devote most of this increase to two key school inputs, teacher salaries and teacher-student ratio."[29] She adds that "teachers' unions are primarily rent seeking, raising school budgets and school inputs by lowering student achievement and decreasing the productivity of inputs."[30] Hoxby's findings are particularly important for charter schools.

Large, urban school districts are natural laboratories for charters. Poor academic performance, combined with parents who lack the resources to send their children to private or parochial schools, make charters one of the only affordable alternatives. Hoxby finds that "metropolitan areas with few opportunities for competition among public schools tend to have more generous school inputs – including higher per-pupil spending, higher teacher salaries, and lower student-

teacher ratios – but also tend to have worse student performance."[31] Further, "teachers' unions will be able to exercise greater influence when schools face less competition."[32]

She goes on to say "teachers' unions may be a primary means whereby a lack of competition among public schools translates into more generous school inputs and worse student performance."[33] Teacher unions are strongest in large urban areas where public schools face less competition and where schools and teachers enjoy substantial benefits. It is unlikely that unions will allow charters to be a serious threat in urban districts where they are most powerful. Unions will use their political influence at the state level to bind charters to the public system and determine just how innovative and competitive they will be. Teacher unions' ability to influence state legislation is pronounced because of their internal structure.

According to political scientists Brian Anderson, formerly of Pennsylvania State University, and Burdett A. Loomis, University of Kansas, interest groups often pursue representation through a federated system like the NEA, which has several different levels. Such groups have national offices that work effectively with satellites at the state and local level.[34] Indeed, teacher unions have been successful at mobilizing support at the federal, state, and local levels.

What Does the Future Hold?

Many education reform advocates have claimed that the power of public sector unions generally, and teacher unions specifically, is waning. They point to a number of incidents, including a recent U.S. Supreme Court decision declining to hear a case challenging the constitutionality of a school voucher program in Milwaukee. A more persuasive piece of evidence is the failed merger in July 1998 between the NEA and AFT.

The merger was touted as the high-water mark for the nation's two largest teacher unions. A combined NEA-AFT would have pooled their resources and presumably not only dominated the education world, but also would have helped spread their political agenda into other spheres of public policy. For a variety of reasons, the merger vote failed overwhelmingly, which came as a surprise to the unions' leadership.

Critics of the teacher unions claimed the failed merger signified the national leadership was out of touch with ordinary teachers. While such arguments may have validity, charter-school proponents should not take comfort in the merger defeat. A recent Fordham Foundation report cites three main reasons behind the merger failure. First, many NEA members were reluctant to join with the AFT because of their AFL-CIO status. Even though the NEA is a union, the idea of becoming part of a labor federation was unattractive. Many union members did not want to part with NEA's independence and autonomy. The leadership gave only lukewarm assurances that the NEA would maintain its independent status, saying that joining the AFL-CIO was merely being "considered" as part of the merger.[35]

Second, the entire structure of the new union was problematic. At the center of the debate were the different hierarchies within the AFT and NEA. The AFT is predominated by weak state affiliates and strong urban locals. Strong state unions and weaker local entities dominate the NEA. Reconciling these differences proved to be impossible.

Third and most damaging to the effort was the set-up of the vote. The leadership rejected advice from critics and stacked the merger exploratory committee with merger advocates. Most of the critics came from strong state unions who saw the merger as an anathema to their power base. The state unions mobilized their array of resources, claiming the merger was a prime example of a centralized and isolated leadership pushing its agenda on pliant union members. The argument was effective; the merger not only failed to capture the necessary two-thirds majority, but fell short of even a simple majority.

The merger failed because state unions mobilized more effectively against it than the national leadership did for it. While the power of the NEA's national leadership might be in question, the state affiliates are a compelling force. The future of charter schools will be decided in state capitals, and it is state unions that influence and limit effective charter- school legislation.

Education researchers Louann A. Bierlein of Louisiana State University and Mark Bateman of Baylor University argue that there are simply too many opposing forces arrayed against charter schools. The overall number of states with strong charter school laws is too small to make a significant difference. Many states hobble charters with bureaucratic red tape. Unions have lined up to stunt charter growth, while proponents, some of whom have substantial resources, simply are not as well organized and do not have as much to lose.[36] The forces opposing charters are also becoming more sophisticated.

Many charters operate in financing schemes designed to fund districts, not schools. The schools are tied to districts for their financial well being, which hampers their effectiveness. Furthermore, only a small percentage of the education community has a vested interest in seeing charters succeed. While new blood in the education community is welcome, veterans tend to have more resources than upstarts.

Charter schools face an uphill battle. While they have been effective in some states, their longevity depends on establishing a national presence. As long as state teacher unions enjoy their current support and strength, developing effective charter schools in many states, especially large ones such as California, will be difficult.

Chapter 2
California: The Uphill Battle

For much of the 1990s, California voters focused on two main problems: the economy and crime. The state's anemic economy continued to sputter after most of the country emerged from recession, and crime continued to be prevalent in the state's urban areas. The Los Angeles riots and a series of natural disasters only worsened problems. Public education did not receive as much attention.

For years, California had won praise for its innovative education system. For his part, Governor Pete Wilson earned the enmity of the state's teacher unions when he proposed ending automatic tenure for public-school teachers, and making it easier to fire incompetents. Nevertheless, Democrat gubernatorial candidate Kathleen Brown all but ignored education in her failed 1994 campaign against Wilson, focusing instead on crime and the economy.[37] During Wilson's second term, California's public schools began to receive more attention, but the news was not all good.

The state's fourth graders were tied for last in reading on the National Assessment of Educational Progress (NAEP). In math, California eighth graders performed only slightly better, placing 32nd out of 40 states. In science, eighth graders were more than a year behind the national average. A *Los Angeles Times* poll found that between March 1994 and December 1997, the number of people who identified education as the state's most significant problem rose from 14 to 23 percent. Crime and the economy fell from 49 percent, to 37 and 21 percent, respectively.[38] The media continued to investigate the state's woeful public schools.

The *Los Angeles Times* conducted an extensive poll of students, parents, and teachers. Seventy-one percent of California adults rated the public schools as only fair or poor, compared with only 25 percent who viewed them as excellent or good. Among African-American parents, an astounding 83 percent rated the schools as only fair or poor. When asked about their own school, half of those surveyed gave a fair or poor rating, while the number rose to 70 percent among African-American parents.[39] When polled, California teachers also gave schools a failing grade.

Sixty-one percent ranked them as fair or poor. On curriculum issues, many argued that too many students were promoted to the next grade level without learning the necessary skills to advance. Forty-two percent said they simply could not hold a student back,

while 32 percent said it would be difficult to do so. Ironically, only students were satisfied with the education they were receiving, with 76 percent giving the schools an excellent or good rating.[40] The poll also asked about reasons for poor performance.

Possible explanations ranged from multi-cultural differences to teacher training. Parents overwhelmingly identified class size and lack of funding, while teachers focused on overcrowded classrooms. Despite dubious evidence, summarized by Hanushek's findings, politicians of both parties supported aggressive class-size reduction programs. Many also supported greater funding, and the data seemed to support this move. From 1964 to 1995, California dropped from fifth in the nation to 41st in terms of per-pupil spending. In fiscal year 1996, the state spent $4,997 per student, $1,121 less than the national average and about half of the approximately $10,000 per student spent by the top-ranked states.[41] Yet the relationship between school finance and student performance is far more complicated than the drop in per-pupil spending. California's school finance system is inflexible, and students have suffered as a result.

California Schools: Where the Dollars Go

In fiscal year 1997, California spent approximately $34 billion to educate roughly 5.5 million children in grades K-12. The money went into a variety of programs, ranging from nutrition to adult education. Experts estimate that the cost of educating children, short of the extra social services that schools provide, totaled about $26 billion. A decade ago, using constant dollars, the state's total education budget was just under $21.8 billion. According to California's non-partisan Little Hoover Commission, the amount has not climbed fast enough. In the last decade, the student population has risen from 4.5 million to 5.5 million, a 22-percent increase in demand for services solely from population growth. Inflation has also taken its toll. Over those same ten years, the cumulative increase in the California Consumer Price Index (CPI) was 39 percent, cutting the system's purchasing power. Further, the state has mandated that the school system meet an increased number of service requirements. For example, spending on special education programs has roughly doubled in the last decade.[42]

The non-partisan Legislative Analyst's Office (LAO) and the Little Hoover Commission claim the state's school finance system has been shaped by a number of important events over the past 25 years, all of them signifying a transfer of control from the district to the state level. In 1976, the California Supreme Court ruled in *Serrano v. Priest* that wealth-related spending differences among districts were unconstitutional. As a result, the legislature imposed limits on revenues that could be raised by districts, and provided about $2.4 billion to increase funding for poorer districts.[43] Prior to this decision, schools relied primarily on local property taxes. Districts with valuable property could set low rates and watch revenue increase as property values soared. Districts with less desirable property, primarily urban areas, struggled to set tax rates high enough to keep up with rising education costs. The *Serrano* decision helped alleviate this problem by transferring more funding control to Sacramento.[44] Proposition 13 also had an impact.

When voters approved the ballot measure in 1978, state property taxes were equalized at one percent of assessed value. Prior to Proposition 13, districts received a given amount of state aid and relied on property taxes to meet any funding shortfall. Now, districts could not set tax rates with this goal in mind. School districts became increasingly dependent on the legislature and state agencies, as increased state aid brought more funding and curriculum requirements and regulations. With a quickening pace, districts lost autonomy.[45]

Proposition 98, which passed in 1988, had the greatest impact on school finance of any of the related ballot measures. The law dedicates about 40 percent of the state's general fund to K-12 public education annually. The measure also requires that schools get at least the amount budgeted in the prior year, plus an adjustment for student population growth and inflation. Some claimed the proposition was necessary to ensure that schools received an adequate level of funding and that students were not short-changed. Others said the measure protected schools from funding shortfalls during the subsequent recession.[46] The teacher unions claimed the proposition forced lawmakers to spend state funds to improve public schools. Then Governor George Deukmejian complained the measure "was an attempt by the teacher unions and the education bureaucracy to guarantee a certain level of state funding, regardless of other needs, and regardless of whether they are doing a good job in spending those funds and educating our children."[47]

Proposition 98 forces state lawmakers to rely on spending formulas rather than identifying individual problems and solving them accordingly. Districts no longer decide what problems need to be resolved, and how much money should be spent where. Instead, they wait to see how much money the state government will give them, and where the formulas will direct them to spend it. In a 1997 report, the Little Hoover Commission found that "the allocation of education funding is driven by resource availability and political considerations, rather than a determination of what is required to provide an adequate education."[48] Teacher unions have been responsible for many of the "political considerations" that the report identifies, and their control extends to other areas.

California's Public Education Establishment

The state's largest teacher union, the California Teachers Association (CTA), an NEA affiliate, represents more than 285,000 teachers and employees of schools, colleges, and universities.[49] The California Federation of Teachers (CFT), the AFT affiliate, has a membership of just under 90,000.[50] The CTA has considerable political strength, based on dues collection, especially in terms of the financial and logistical support it can offer candidates, officeholders, and propositions.

When the CTA negotiates teacher contracts with local school boards, it includes a provision where a portion of teacher salaries goes directly to the union in the form of dues. A portion of these dues is directed to a union-sponsored political action committee (PAC), unless the teacher explicitly states he or she does not want his dues used for political purposes. Teachers cannot decide which PACs their dues

support, nor do they have to give their assent before the union gives their money to various candidates and causes.[51] The Proposition 174 campaign, outlined earlier in this paper, is an instructive guide to the CTA's influence in California politics.

On November 2, 1993, California voters rejected Proposition 174, 70 to 30 percent.[52] The measure would have provided all students with vouchers of up to $2,500, which could be applied to the cost of attending any private school. The initiative would have also allowed students to transfer into any public school in any district, up to the limit of its capacity. Early polls showed a majority of voters, some as high as 70 percent, in favor of vouchers.

The CTA conducted an aggressive campaign against the measure, assessing its 226,000 members $57 each in order to raise $12-15 million to defeat Proposition 174. By mid-summer, with the election still months away, the union had spent $1.9 million for a six-week series of radio and television advertisements against the proposition. By September, the CTA had spent another $4.7 million, while voucher supporters had not even begun advertising. The CTA's aggressive tactics paid off.

Perhaps intimidated by the CTA's war chest, many Republican lawmakers decided to oppose the initiative. Congressman Tom Campbell, who was running for the U.S. Senate in the GOP primary, initially came out in favor of vouchers. The CTA promptly threatened to run one of its officers against Campbell and "saturate the area with money and workers in an all-out campaign." Shortly thereafter, Campbell decided to oppose the measure.[53] The union was also effective in using non-financial means to defeat the initiative.

The union mobilized 24,579 volunteers to make 943,149 phone calls, 101,000 on the Monday before the election, urging voters to come out against the measure.[54] The CTA urged teachers to vote absentee so they could be free on election day to help with a variety of activities, including telephone banks and driving voters to the polls.[55]

Voucher foes raised $16 million in cash and in-kind contributions to defeat Proposition 174. By contrast, Republican lawmakers and many publicly-held corporations hesitated to donate their resources to voucher supporters for fear of backlash. When one restaurant chain donated $25,000 to the campaign, threats to boycott the chain rolled in, despite CTA promises that it would not engage in such tactics.[56]

Voucher supporters were outspent more than eight to one. According to the *Catholic School Times*, "Prop. 174 did not lose because voters are against parental choice, it lost because opposition groups were effective in creating worry about the language and possible loopholes of the amendment." Exit polls revealed that only 18 percent of the voters were "fully opposed to the concept of choice in education." Furthermore, 73 percent of voters indicated they would have voted for the initiative if "they were sure that per pupil funding in the public schools would not decrease."[57] Political strategist Ken Khachigian, who ran the pro-Proposition 174 campaign, commented, "If somebody asked me about another school choice campaign, I'd tell them, 'don't do it unless you're going to spend $40 million, or $60 million, and do it right.'"[58]

The CTA and the public education community maintain a high-profile lobbying presence in the California state capitol. According to the Secretary of State's office, the CTA spent more on lobbying expenses than any other education group between January 1997 and June 1998, totaling $1,356,639. The California School Boards Association came in second with expenses of just under $1.3 million. The Association of California School Administrators spent nearly $700,000, while the CFT spent close to $370,000. Large urban school districts also spent a great deal of time with state legislators and lawmakers. The Los Angeles Unified School District (LAUSD) spent more than $630,000 on lobbying expenses over that same period. Grassroots reform groups, like the California Network of Educational Charters (CANEC), are not even listed on the Secretary of State's report.[50] Against this backdrop, charter schools have fought to establish themselves as an independent alternative within public education.

Tepid Reform: California's First Charter School Law

In 1992, California became the second state to adopt charter legislation, in the midst of growing controversy surrounding Proposition 174. Various charter bills were proposed and promoted by a number of different groups. The Wilson Administration eventually signed on to a bill sponsored by Democratic State Senator Gary Hart, chairman of the Senate education committee.

California's new law capped the number of charters at 100. The state allowed local school boards and county boards of education to approve charters. If charter applicants were denied approval by local boards, then they could appeal to the county board. All public schools could convert to charter status, as could home schools and start-up schools. Fifty percent of teachers in a school seeking charter status had to sign on to the idea, or 10 percent of the teachers in the school district where the charter would operate. Charters were granted for up to five years and received an automatic waiver from most state oversight, but the level of freedom from district control had to be negotiated in the charter.[51] If a school lived up to its contract over the course of the five-year term, its charter was eligible for renewal. If at any point the school failed to meet aspects of its contract, then its charter could be revoked.

The most serious problem in the state's new law was funding. Charters were eligible for 100 percent of state and district operations funding, based on average district per-pupil funding. All categorical funding had to be negotiated. However, individual charter schools received no money directly from the state. Instead, they had to rely on districts to distribute state funding. The state did not provide any start-up funding, though schools were eligible for federal assistance. The bargaining status of charter employees was left ambiguous. Teachers did not have to be certified and they could continue as members of the district unit, form their own governing body, or remain independent. All students could enroll in charters, with priority in the approval process going to schools designed to serve low-achieving students.[51]

The original law granted charters a great deal of autonomy in curriculum decisions and academic freedom. Despite these improvements, the schools' lack of financial autonomy hampered charter effectiveness. Charters needed access to capital. They needed to rent or lease buildings in order to have space for classrooms, and money for other start-up expenses. California's law did not provide developers with any access to capital, so they had to raise money on their own or rely on federal assistance. Only local school boards and county boards could grant charters, and schools relied on the district in order to obtain their money. Advocates complained that charters could not be autonomous as long as they relied on the district and county for approval and funding.

Charter Skeptics: State Bureaucracy and Union Intransigence

In a February 1999 speech, California Superintendent of Public Instruction Delaine Eastin said, "charter schools have a bright future," and "charter schools and regular school districts should live up to the same high standards." She also claimed that, "to the extent charter schools are getting results because some of the strictures of state law have been removed, we should extend those opportunities to districts." Furthermore, reform should be "on-going and organic, and used not just for individual skunkworks, but also to help us improve the overall system."[62] Since the law's inception, however, Eastin and the State Department of Education have not always been so helpful.

As a state legislator, Eastin had sponsored a charter bill that was supported by the CTA. Her proposal would have required that all teachers remain part of the local bargaining unit and capped the number of charters at fifty.[63] During her first run for superintendent, she enjoyed the backing of the state's teacher unions, and her 1998 reelection campaign received $262,800 from the CTA and more than a half-million dollars total from organizations that represent public-school employees.[64] Eastin's powers are, nevertheless, quite limited.

Under the state Constitution, the governor and his appointed State Board of Education formulate policy and standards for the state's schools, while the legislature authorizes the budget. As head of the State Department of Education, the superintendent is responsible for enforcement of the state's laws and regulations. Despite her pledged support, Eastin and her staff have often subjected charters to intense scrutiny.

In May 1995, Democratic State Senator Gary Hart sent Ms. Eastin a letter, complaining that her department was misinterpreting a law he had authored, by clamping down on distance-learning charter schools. Hart's law forbid school districts from offering students "things of value," meaning VCRs, microwaves, or other non-academic enticements, so that they would attend districts' independent or home-study programs.

When Horizon Instructional Systems, one of the state's largest charter schools, began to spend more money on instructional materials and equipment such as computers, the California Department of Education (CDE) claimed it was in violation of the "things of value"

clause, and threatened to pull state funding. Hart then claimed that his law was being interpreted by Eastin's staff "in a manner inconsistent with my intent as the author." Republican Attorney General Dan Lungren concurred, saying the CDE was in violation of state law by denying funds to Horizon. Lungren charged that it was "absurd" to suggest that distance-learning charters could not offer material and equipment essential to the curriculum, but which might not be found in a standard public school. A CDE official, Carolyn Pirillo, responded by saying that Senator Hart's complaint "did not matter" and that the "Attorney General's opinion is misinformed."[55]

With the help of the Pacific Research Institute, the Sacramento-based Pacific Legal Foundation (PLF), a non-profit public interest organization, eventually filed suit against the CDE for denying funds to Horizon. In April 1996, PLF obtained a settlement with the Department, whereby the CDE promised to drop rigid interpretation of the "things of value" clause, and to continue funding for Horizon and other distance-learning charters.[56]

Despite this temporary setback, Superintendent Eastin and the CDE did not stop there. In a June 1997 letter to the Ready Springs Union Board of Trustees, Eastin complained that one of the district's charters was not performing adequately. The Ready Springs Charter School is a home school that, like all charters, relies on the CDE to assess its average daily attendance (ADA) in order to receive funding. Measuring attendance with home schools is difficult. Students do not have to report as often as those at regular schools. Eastin complained that "she was deeply concerned about the findings my staff made during the course of their work."[57]

She went on to say that it was "only the absence of statutory and regulatory authority" for ADA in home schools and distance-learning charter schools that kept her "from invalidating all of the ADA for these components of your charter school." She urged the board "to implement a policy where teaching staff engage in substantive contact with students' parents," along with a series of reports and written records for each day of claimed attendance for students.[58] While the charter law allowed for significant autonomy in developing alternative schools, Eastin wanted this particular school to be closely monitored, requiring costly reports and examinations at the school's expense, even though no regulation required the school to do so.

The CTA also has fought the expansion of charter schools. The union requires that charters meet certain standards before they will endorse them, including that schools must not be "private or profit enterprises," even though state law allows charters to earn profits.[59] When the West Covina Unified School District informed teachers it was moving forward on developing a charter school with The Edison Project, a private firm that operates charters across the nation, the union balked.

In early 1998, the school district contacted the waiver office at the CDE to formally initiate the charter-granting process. The state had already exceeded its charter cap, so applicants had to apply for a waiver. The local union cited a *NEA Today* article that claimed "venture capitalists and education entrepreneurs are brainstorming to turn the American public education system into a major for-profit com-

pany." The union also claimed that "Edison teachers will be protected and you might be laid off," that salaries might be cut, and the grievance process altered.[70]

In February 1998, the local union presented the CDE with a petition signed by half the teachers in the district who were against the establishment of an Edison school.[71] Despite the union's efforts, the State Board of Education approved the Edison charter in April 1998.[72] Unions and other charter foes, however, had been successful in stunting charter growth. As of July 1997, only 108 schools were operating in California. Local school boards, where unions have influence, controlled the approval and funding process. Most charters had significant financial problems, especially when it came to acquiring capital. Moreover, the Republican-controlled State Board of Education had only approved 25 new schools through the waiver process, very few of which were up and running.[73] Charter advocates feared the movement was being neutralized.

Threat of Initiative and the New Charter Law

Silicon Valley entrepreneur Reed Hastings began organizing a charter initiative that he planned to place on the November 1998 ballot. Hastings and his supporters wanted to increase the number of charters allowed under state law, expand the number of bodies that could grant charters, and establish financial autonomy for schools. With the threat of an initiative hanging over its head, the legislature quickly drafted new legislation authored by Democratic Assemblyman Ted Lempert. On May 8, 1998, Governor Wilson signed into law AB 544, the Charter Schools Act of 1998. Hastings promptly dropped his initiative drive and endorsed the new legislation. The CTA and other charter opponents did not support AB 544, but they preferred the bill to Hastings's proposition. The unions even earned some important concessions.[74]

The new law increased the statewide cap to 250 for the 1998-99 school year, with an additional 100 schools allowed in every subsequent year. It permits a group of teachers or parents to petition for a new school, whereas the previous bill only involved teachers in the process. The new law also allows charters to organize as non-profit corporations, thereby transferring liability to the school and not the charter-granting agency, in response to some boards' reluctance to issue charters because of liability questions. In addition, the law allows charters rent-free use of district-owned facilities that are not currently being used, in order to reduce at least some of the start-up costs. It also drastically reduces the amount of money districts can charge charters for oversight fees. Most important, the new law provides charter developers with more choices and flexibility.

Charter developers can now appeal denied charters all the way to the State Board of Education. Districts must grant charters unless they issue specific, written findings that the proposal is unsound. The law also empowers the State Board to develop a funding plan that would distribute state money directly to charters, though it does not force the Board to do so. Some feared that if the new law explicitly set up an autonomous path for charters, unions and other opponents would

have actively campaigned against the bill. Another important concession charter advocates had to make was regarding teacher credentialing. The new law forces charters to maintain credentialing records for all teachers, where no such requirement existed before.[75] While many thought the new law strengthened charter schools, others remained unconvinced.

The Unconverted

In July 1998, a lawsuit was filed in San Francisco Superior Court claiming that charter schools violated the state Constitution by providing a gift of public funds to private organizations, and on other grounds. The suit sought to ban the State Board of Education from the charter process. The plaintiffs' attorney, Lynn S. Carman, claimed her clients did not represent any special interest group. Carman said her clients believed charters were a "profound shift in the concept of public schools, it taxes you and me for public purposes and turns it over to private people to do with as they want."[76] The Court disagreed and dismissed the suit.

In December 1998, a group of researchers at UCLA released a report arguing that evidence supporting charter success was inconsistent. The report concluded that charters were not providing students with a superior education, and in many cases there was little evidence to support advocates' claims that charters were more accountable, efficient, or innovative. The researchers visited 17 charter schools in 10 districts across California over a two-and-a-half year period. They "sampled for diversity at both the district and school level in order to capture the range of experiences within this reform movement."[77]

The study found that few charters are "being held accountable for enhanced academic achievement," and that schools find themselves beholden to multiple constituencies. Such problems plague all California schools. They are supervised at the district, county, state, and federal levels, with funding being centralized out of their control, and determined by formula rather than on-site needs that require flexibility. Furthermore, the amount of public funding that charters receive varies from one "district to the next and even within the same district."

Many charters depend on private resources, and schools vary in their ability to raise these funds. Charters require a level of financial autonomy that the previous law did not provide. Moreover, difficulty with start-up costs continues to hamper school effectiveness. Some schools can attract investment from the private sector, while most do not.[78] Many of the study's findings, however, were premature.

For example, the UCLA study found that most charters continued to hire credentialed teachers, even when the old law did not force schools to do so, because the district either required it or because such teachers were more "credible to voters and parents." Credentialed teachers flood the public school market and most parents prefer them for the "skills they connote, as much as the value they add," as the report recognized.[79]

It is too early to tell if charters will consistently hire credentialed teachers, especially when the system has not adequately experimented

Table 3.
Concentration of Charters in Major Urban California School Districts

	Charters	Total Schools	Charter Make-Up	K-12 Students
San Francisco USD	3	115	2.6%	66,054
Long Beach USD	2	86	2.3%	83,536
Oakland USD	2	94	2.1%	51,465
Los Angeles USD	13	682	1.9%	649,054
Sacramento USD	1	80	1.3%	49,500

Source: California Public School Directory, California Department of Education, 1998.

with non-credentialed instructors. In order to improve performance, some have suggested that districts hire uncredentialed experts in their respective fields to teach. For example, they claim, a retired engineer might make an excellent high school science teacher. Unions oppose such reforms on the grounds that all teachers must be credentialed in order to ensure quality, and the new charter law requires that all teachers have some form of credentialing. As long as unions and others insist on credentialing requirements, new markets for improving teacher performance will remain untapped.

Most troubling is the report's charge that charters do not reflect the racial/ethnic background of their districts or public schools generally, and that they do not reflect socioeconomic breakdowns, skimming off more affluent, white students with active and involved parents, raising questions of "equity." The report finds that in 18 percent of the charters studied, Latino students were 25 percent less represented than the district's totals. In 36 percent of the charters studied, the proportion of students eligible for free/reduced lunch was more than 20 percent below district averages.[50] However, this is not a national trend.

According to a 1998 study of charter schools by the U.S. Department of Education, charters do reflect the racial composition of districts. In 15 charter states and the District of Columbia, 22.5 percent of all public school students are Latino, compared to 22.3 percent of charter school students. The same study measured "estimated racial distinctiveness of charter schools compared to surrounding districts." It concluded 60 percent of charters were "not distinct" from their district.[51]

California charters enroll lower percentages of Latino and disadvantaged students because urban districts with high minority and low-income populations have very low concentrations of charter schools. There are not enough charter schools to judge charter effectiveness in urban California districts. A more simplified funding process needs to be established to encourage charter development in these districts. The lack of capital must also be addressed, and local school boards and the CDE will have to be more helpful than in the past. Many urban districts, meanwhile, are clamoring for charter reform.

In Oakland, test scores at standard public schools are alarmingly low. A recent study of local high school tenth graders found that only one percent read at grade level at one school, and a mere 10 percent at another. The city already has two charters, and as many as 10 new schools have been proposed for the current academic year. A local group, Oakland Community Organizations (OCO), is proposing six to seven charters and has already presented the local school board with a petition of more than 1,000 parent signatures. Oakland Mayor Jerry

Brown has made charters a key element of his school reform agenda, saying that charters originate from the "community's creativity and desire, it does not come from command and control, the centralized system which is in place now."[82]

An Uncertain Future: Cause for Pessimism

Shortly after the November 1998 election, political strategist Ken Khachigian predicted, "Gray Davis is not going to be the lap-dog for the education bureaucracy that everybody thinks. He knows that he won't get reelected if he messes this one up."[83] Davis confessed in a speech shortly after his inauguration, "If we do not fix the schools," he predicted, "we're looking at vouchers or some other seemingly attractive concept that will be imposed on us by the voters."[84] A *Los Angeles Times* poll found that vouchers were increasingly popular among California voters, regardless of race or ethnicity.

Table 4.
Support for School Vouchers Among California Parents

Question: Do you favor or oppose establishing a school voucher program that would allow parents to use tax funds to send their children to the school of their choice, even if it were a private school?

	White	Black	Latino	Asian
Favor	63%	64%	68%	64%
Oppose	31%	33%	22%	24%
Don't Know	6%	3%	10%	12%

Source: *Los Angeles Times* Poll, 18 November – 12 December 1997.

Davis's first cabinet appointment was Gary Hart as education secretary. Hart, a former state senator, chairman of the Senate education committee, and sponsor of the state's first charter school law, was recognized by many in both parties as a dedicated school reformer. Prior to his appointment, Hart ran the Institute for Education Reform, a Sacramento think-tank that promotes aggressive reforms and advances charter schools. In the early days of the Davis administration, Hart claimed that the governor meant to keep his campaign promise to fight for more charter schools.[85] Despite these assurances, the legislature adopted several anti-charter bills in the ensuing months that were either not opposed by Davis and Hart or actually received their active support.

In April 1999, Democratic Assemblywoman Carole Migden introduced AB 842, requiring charter school employees to unionize under the local school district's bargaining agreement. Democratic Assemblyman Scott Wildman, a former union organizer, claimed the bill was not "about good or bad. This is whether teachers (in charter schools) should be granted the same rights as teachers in other public schools."[86] Eric Premack, director of the Charter Schools Development Center at CSU's Institute for Education Reform, disagreed, claiming the bill would take away teachers' rights by "not only forcing them to bargain collectively, but to bargain as part of the existing bargaining units."[87] Indeed, under AB 842, charter schools would be the only California public schools legally required to have union contracts. Yvonne Chan, a charter school principal in Los Angeles, commented on the bill, "If it passes, we're dead. If this passes, it will be the districts and unions that run charter schools."[88]

While charter advocates voiced various concerns, AB 842 passed through the Assembly Education Committee. Prior to a vote on the

floor, the bill was sent to other committees to be examined. During this period, AB 842 critics gained a crucial ally in Oakland Mayor Jerry Brown. In an angry letter to Migden, the former Democratic governor claimed that he and other charter advocates would not "cravenly accept the sellout of our right to determine our educational destiny." He also commented that expanded regulation of charter schools is ineffective. According to Brown, "decentralization is crucial to both freedom and excellence."[59]

In early June, amid growing criticism, including a large protest on the steps of the State Capitol, Migden amended her bill to give charter employees the option of unionizing, but not forcing them to do so. The watered-down legislation did not placate charter supporters. The new language forced charter employees to join existing district bargaining units if they chose to unionize. Charters were still not able to form their own units.[60] When the pressure did not subside despite the amendments, Migden eventually withdrew her bill. The charter opposition did not withdraw, however.

During the AB 842 controversy, Democratic Assemblyman Carl Washington introduced legislation to increase charter regulation. AB 692 sought to prevent districts from sponsoring charters outside their boundaries. Like AB 842, the bill was supported by unions and many public school officials who claimed that districts which sponsored charters in other jurisdictions were unable to provide sufficient oversight. Furthermore, the bill's supporters claimed that charter developers often went to other districts when local officials did not supply enough money.

The bill passed through the Assembly on a largely party-line vote. In the Senate Education Committee it encountered more difficulty when charter supporters complained there was little evidence suggesting that districts sponsored schools outside of their jurisdiction, and even less evidence suggesting that charters went outside their local district to secure more funding. Advocates claimed that charters bypassed their local district to get approval primarily because of space limitations or district intransigence. The bill was eventually amended to allow for contiguous districts to grant charters in one another's jurisdictions. Nevertheless, the bill failed to make it out of committee during the 1999 session.

The FY 2000 California state budget contains both pluses and minuses for charter schools. For the first time, charters will receive an equal share of per-pupil funding in the form of block grants, thereby simplifying some of their funding woes. The budget also allocates special education funding directly to charters, rather than forcing schools to go through the district.[61] Unfortunately, the budget also contains damaging elements. SB 434, a budget trailer bill, was amended shortly before it passed the full Assembly in late June. The new bill curbs distance-learning charters and requires charter schools to abide by many of the same restrictions that hamper standard district schools.

Specifically, the bill prevents distance-learning charters from enrolling students who reside more than one county away from the district in which the school operates. Previously, many students would simply connect to these charters via the Internet. Furthermore, SB 434

requires charters to keep written records of student attendance, participate in state testing, and offer the same minimum number of instructional minutes as regular schools. The bill also prevents high school students from taking any courses required for graduation exclusively through home study and distance-learning programs. These provisions were deleted, but then added on immediately prior to the Assembly vote. Democrats also voted to deny a hearing in the Assembly on the new provisions. The bill was approved on the floor without a single Republican vote in favor.[92]

Charter advocates and their GOP allies waged an aggressive fight in the Senate. Republican Assemblyman Steve Baldwin claimed the bill could shut up to 35 schools, pushing 22,000 students out of the charter system. Charter school principal Jayna Gaskell complained, "I'd like to meet the person who can prove that the amount of time a child sits in a chair equates to learning." She went on to say that the distance learning students who were enrolled in her charter would attend regular schools if "districts would offer the programs that meet their needs. Districts continue to deny charters simply because they are afraid of the competition."[93]

In a letter to state senators, Education Secretary Gary Hart claimed that SB 434 was necessary "to ensure that key safeguards on attendance and financial accountability are in place."[94] Hart later went on to say that "charter schools were never envisioned as money-making ventures."[95] Democratic State Senator Patrick Johnston, the bill's sponsor, complained that critics were overstating the bill's effects. Like Hart, he claimed the bill added further "accountability to the use of taxpayer funds." Moreover, charter schools were never meant to be a loophole for home schools and distance learning. His bill sought to ensure that there was "reasonable proximity" between charter schools and the students they served."[96] In committee, Republican State Senator Ray Haynes asked for evidence that distance learning students were being short-changed under the current law. When opponents could not come up with any hard facts, he retorted, "what does reasonable proximity have to do with student learning?"[97]

Governor Davis remained silent during the squabbles. At the budget signing, he continued to praise charter innovation. Charter schools should be freed "from all the bureaucratic rules and regulations, and see if they can produce what counts, which are higher test scores." If they are able to deliver on higher test scores, he promised "to continue to be very supportive of charter schools." When asked about SB 434, which he signed, the governor was less direct, replying that the bill's changes were "kind of modest."[98] Many of Davis's critics point to the nearly $1 million in CTA donations to his recent gubernatorial campaign.[99]

Charter opponents and their political allies seem intent on introducing further regulations. In the legislature, supporters are in the minority and unable to wage an effective counterattack. After the passage of SB 434, Republican State Senator Tim Leslie observed, "this will be the fuse that lights the voucher initiative."[100] Voucher supporters are already circulating a ballot initiative for the 2000 election.

California charter schools have yet to shake up the system significantly, and based on the experiences with Governor Davis and the

legislature to date, it is likely charter effectiveness will continue to be hampered. Without more radical reform, charter schools in the Golden State may be doomed to an undistinguished and ineffective future. In contrast, a neighboring state has a very different story to tell. Arizona leads the charter-school movement, with 271 charters during the 1998-99 school year, the result of an expansive law that grants charter operators considerable freedom.[101]

Chapter 3
Arizona: The Free Market Model...With Strings Attached

Arizona and California have had very different experiences with charters but they share similar student demographics, school finance problems, and mediocre student performance. California spends $25 billion on roughly 5.5 million K-12 students in nearly 8,000 schools. Arizona spends just over $3 billion on close to 740,000 students in roughly 1,000 public schools. Despite these differences in size, the states have similar demographics.

Twenty-two percent of Arizona students live in poverty, while 26 percent come from single-parent homes. Forty-two percent are minority students, with three-quarters attending urban or suburban schools.[102] As in Arizona, just under 25 percent of California's students are in poverty, while roughly the same proportion comes from single-parent homes. California also has a high number of minority students, totaling 59 percent. Both states enroll more than 75 percent of their student populations in urban and suburban public schools.[103] Arizona and California have struggled with school finance issues as well.

In both states, the courts found that the vast disparities in spending among districts were unconstitutional. Districts have had to look to the state to solve their funding woes. Both states have similar per-pupil spending totals. They spend just over $4,500, well below the national average. In terms of gross state product, for every $1,000 spent in Arizona, $36 went toward education costs, while California spent $30 per $1,000 on education.[104] Test data are also discouraging in both states.

As defined by the 1996 National Assessment of Educational Progress (NAEP), only 24 percent of Arizona fourth graders were proficient in reading. Similarly, only 18 percent of California fourth graders were proficient readers. In both states, eighth graders scored low in math, with 15 percent of Arizona students and 16 percent of California students scoring proficient. The numbers did not improve in science. Among eighth graders, 45 percent in Arizona and 53 percent in California scored below the basic level in science. Currently, neither state requires its students to meet tenth grade standards in order to graduate. As of November 1998, neither state held schools

accountable for performance through report ratings, rewards, or sanctions.[105] While both states have since adopted legislation to move toward these goals, it has yet to take effect.

Arizona has looked to spur reform through the establishment of autonomous charter schools. While California has revised its charter law to make it stronger, it has not had as pronounced an impact. The crucial difference between charter reform in the two states is their labor laws.

Arizona: Home of the Free Market

Arizona is a "right to work" state, one of just a few states that prohibits compulsory union membership.[106] Like most states, California requires that teacher contracts be negotiated through bargaining, and the difference is significant. California teacher unions negotiate contracts for all teachers and many other school employees. They take a portion of the employee's salary before he or she sees it, and use it for a variety of purposes, including lobbying and campaign finance. By representing all teachers through statute, California teacher unions are not only much larger, they have much more money as well.

Arizona teachers can join a union if they choose, but are not automatically covered by one. Nor is a portion of their salary automatically collected as union dues. Teachers choose not only whether to join a union, but if they should contribute to its PACs and other political campaigns. By contrast, California law enables public-sector unions to use members' dues for political purposes without consent.

Arizona unions have fewer members and less money. In 1997, only seven percent of Arizona workers belonged to unions, well below the national average of 14 percent. Sixteen percent of California workers were union members.[107] The Arizona Education Association (AEA), an NEA affiliate, is the largest union in Arizona with 29,000 members. California's NEA affiliate, the CTA, is also the largest union in the state, but it has a membership of roughly 300,000. In 1998, the AEA's total operating expenditures came to just under $126,000, including operating costs, lobbying, and campaign finance. Over the same time period, the CTA spent roughly $1 million on lobbying the legislature alone.[108]

The CTA plays an integral role in California politics. It was the largest single contributor to Governor Davis's campaign, played a significant role in helping to elect down-ticket officeholders, including schools chief Delaine Eastin, and was crucial in helping defeat Proposition 226, which sought to require unions to obtain members' consent before using their dues for political purposes.

According to Jaime Molera, education advisor to Arizona Governor Jane Hull, "Arizona unions are non-existent in state politics."[109] In 1997, Republican Governor Fife Symington was impeached and forced to leave office. Only a year later, his Republican successor, Hull, was overwhelmingly elected to a full term, although the AEA and other unions supported her Democratic challenger. Lisa Graham Keegan, the Republican Superintendent of Public Instruction, ran unopposed to win reelection. Four years earlier, she defeated her union-supported Democratic challenger. Arizona is one of the few states that combines

free-market labor laws and a political climate that tends to be unfriendly to unions. While public-sector unions have significant influence in many state capitals, they enjoy less clout in Phoenix.

Leader in Educational Choice and Tough Standards

Arizona has enacted ambitious reforms aside from charter legislation. Over the past several years, six school voucher bills have been debated in the legislature, but all have been narrowly defeated in the House or Senate. The most recent version, HB 2279, passed the Arizona House of Representatives in March 1999. The vote was 31-27, the minimum needed for passage to the Senate. The legislation would have provided parental choice grants of up to $4,800. The bill, which Superintendent Keegan supported, would have made vouchers available to children in families with incomes at or below 135 percent of the federal poverty level, meaning a family of four would have had to earn at or below $22,210 per year in order to qualify. Legislative analysts predicted the bill would cost the state $9 million in the next fiscal year, a figure that would gradually decline over time. Analysts stressed that these are rough estimates because no one was sure how many families would take advantage of vouchers.[110]

Supporters claimed the bill was constitutional because the vouchers are paying for educating students, not for supporting private schools. Republican State Representative Mark Anderson claims vouchers are similar to state payments to private contractors for building freeways.[111] Critics contended that the bill was a violation of the state constitution because it transfers public money to support private and sectarian schools. They allege the plan would funnel money to for-profit public schools as well as schools run by religious or other groups with which many taxpayers disagree. Several Democratic and Republican lawmakers believe the state should be spending money to improve existing public schools, rather than paying to send children outside of the system.[112]

Other critics of the plan objected because it would have opened the private sector to increased regulation. Republican State Representative Debra Brimhall opposed the bill because she was concerned that schools accepting the vouchers would have to meet certain state regulations concerning curriculum and pupil testing. Proponents claimed schools that are unwilling to meet these standards could opt out of the program.[113] Nevertheless, the voucher bill failed to win passage in the Senate during the 1998-99 legislative session.

The Arizona legislature has embarked on other education reforms as well. In 1994, it passed an open enrollment law that allows students to enter schools outside their district, as long as space permits. The best districts, however, accept smaller numbers of students because space is at a premium. Critics maintain the law is ineffective, but advocates claim it is an important step in providing parents with greater school choice.

In 1997, both houses passed a tuition tax credit that allows taxpayers to give up to $500 to organizations that provide scholarships for low-income students to attend private schools. A credit of up to

$200 is available for donations to support extracurricular activities at public schools. After the law passed, the AEA and other opponents took the measure to court, saying the $500 tax credit for donations to scholarship organizations violated the state constitution. In January 1999, the Arizona Supreme Court ruled the tax credit was constitutional, saying the program did not force taxpayers to use the credit.[114]

Arizona has adopted tougher standards for its schools as well. Both the conservative Fordham Foundation and the AFT have hailed Arizona's new, innovative standards program; they have commended the state's drive to adopt stricter standards in language arts, mathematics, and science.[115] The state also adopted legislation requiring graduating high school students to meet tenth grade proficiency levels before earning their diploma. The law has not gone into effect, and observers such as *Education Week* claim that Arizona schools are having difficulty integrating the stricter standards into their curricula. Recent test scores indicate Arizona students still lag behind national levels.[116]

Beyond Reliance on School Bonds: The Market Approach

As in California, school finance is a problem in Arizona. The state is spending more and more on education, but student performance fails to keep pace. In fiscal year 1997, more than 40 percent of the state's general fund, nearly $2 billion, went to the Department of Education. An extra 17 percent of the budget went to miscellaneous education costs. Over the past ten years, the state has spent more each year in constant dollars in order to catch up with an expanding student base.[117]

Districts have primarily relied on property tax revenues to fund school construction and other expenses. Less affluent districts have struggled to set rates high enough; property value is simply too low in some areas to assure sufficient revenue for operating expenses. As a result, localities and the state have increasingly relied on general obligation bonds to make up the difference. Rather than raising taxes, these bonds allow public authorities to borrow from taxpayers in the short term to finance school construction, renovation, and other expenses. General obligation bonds are a luxury for politicians who are sensitive to improving the state's schools, but are, nevertheless, reluctant to raise taxes or use other more difficult methods to raise revenue.

The long-term implications are less favorable, however. Over the past ten years, the amount paid to service the debt on school construction has climbed to nearly $500 million a year. If that trend continues, there will be nearly $5.8 billion in outstanding bonds by 2008. Critics complain that policymakers have relied on easier short-term solutions rather than devising a sustainable school finance policy.[118]

In 1994, the Arizona Supreme Court invalidated the state's primary means for school construction, the property tax. The Court's reasoning in *Roosevelt v. Bishop* was similar to California's *Serrano v. Priest* decision. The vast disparities in wealth among school districts led to varying amounts districts could spend via local property taxes.

The Court ruled these spending differences violated the state's constitutional requirement of a "general and uniform" school system.[119] Most districts looked to greater use of bonds to meet rising school costs, but some policymakers proposed a different alternative.

In an October 1998 speech, Superintendent Keegan said that the era of local control in terms of school financing was over. Districts and local authorities simply cannot design a funding system that is equitable across the state. In order to avoid increasing the role of the state and halt reliance on borrowing, Keegan maintained the state should attach an equal amount of money per student for school construction costs. Schools would then bid for these students, offering various incentives in order to attract students and the money they would bring with them for capital expenses.[120]

Others in Arizona came up with similar proposals. The conservative Goldwater Institute, a Tempe think-tank, devised a "child-centered school funding" plan. Like Keegan's proposal, the plan stressed that public education has entered a new era. Public schools used to be the sole provider of public education in Arizona. The growth of charter schools, open enrollment, and tax credits for scholarship organizations has expanded the choice of schools to which parents can send their children with taxpayer money. State and local governments have increasingly become purchasers and subsidizers of educational services. As such, public authorities need to devise a market-oriented school construction plan.

The Goldwater Institute devised a plan that allocated $650 per student for construction and other capital expenses. District schools would provide various incentives to parents, from increased academic standards to expanded extracurricular activities, in order to attract students. Proponents claimed the plan would set up a competitive bidding system that would keep costs down. Under the previous plan, many claimed that construction costs were inflated because authorities could simply borrow more in the short term to keep up with rising costs.[121]

Critics maintained that these market-oriented proposals shortchanged school construction. There would not be enough money to go around, and the state would have to spend or borrow more. Proponents countered that their plan forced schools to operate like any other business. Schools would have to be built on expected revenue. They would no longer have an easy way out, relying on voters' generosity at the ballot box to approve construction bonds. The Goldwater plan claimed that 98 percent of the state's districts would not require additional state funding above $650 per student. As with any plan, a small number of districts that experienced exceptional growth would need extra help for construction and renovation costs.[122]

The final plan that Keegan endorsed and the legislature passed in April 1998 was similar to the Goldwater approach. The state's new student-centered finance system allocates up to $500 per student for capital and construction expenses for standard public schools. Charters do not receive capital funding per se, but will gain an additional $400 per pupil under the plan. In July 1998, the State Supreme Court declared the bill met constitutional requirements.[123]

The state's new school finance system is a good fit for its independent charter schools. The additional $400 per student allows Arizona charters to tap the same money for capital expenses as regular public schools. It puts the emphasis for funding on students rather than the type of school to which the money is going.

The Charter School Leader

Arizona passed its charter law in 1994. The bill that was eventually adopted was sponsored by then State Representative Lisa Keegan, and has since been recognized by proponents as the model for charter school legislation. The law empowers local school districts and the State Board of Education to grant charters. It also created an autonomous State Board of Charter Schools to grant charters and supervise the system. The State Boards may grant up to 25 charters annually, while there is no limit on district-approved schools.

Any public body, private person, or private organization may apply for a charter, and the law permits for-profit operation of charters. Any public or private school may convert to charter status, and start-ups are allowed as well, but home-based schools cannot apply for charter status. Arizona has a strong appellate process as well. If one of the charter-granting bodies denies a petition, applicants may go to one of the other boards, and districts may grant charters to schools outside of their boundaries.[124]

Another important feature of the Arizona law is the duration of the charter. The term of the initial charter is 15 years. Most states grant charters for three to five years. Proponents claim that charter operators have difficulty persuading private investors to come on board when the charter length is so short. They claim it is difficult for charters to prove they are a worthy investment in such a short time, especially when many are start-ups or have converted because of poor performance. After all, they claim, regular public schools rarely, if ever, have to prove their financial and academic credibility to private investors. Longer charter terms, like the ones that exist in Arizona, are pivotal in attracting private investment. Critics maintain that charter lengths should be shortened in order to increase accountability and ensure that schools are living up to their agreements.

Arizona charters receive an automatic waiver from most state and district regulations. The Arizona Department of Education must provide charters with many forms of assistance, including transportation, facilities, and technical assistance. Since the law's inception, the Department has also been politically supportive of charters, unlike education agencies in California and many other states. Charters, like all public schools in the state, must provide report cards on their performance to parents and the Department of Education, and they must also undergo an annual audit.[125]

The most important aspect of the Arizona law is the level of financial independence it provides for charters. For schools that are sponsored by district boards, the amount of funding is negotiated in the charter. Charters approved by the State Boards receive the same amount as other schools in their district. More than 90 percent of charter revenue comes directly from the state.[126]

Unlike those in California, Arizona charters have ready access to capital. The state sets aside $1 million annually in stimulus funding, and they are also eligible for federal assistance. The new student-centered school finance system makes few distinctions between charters and regular public schools. All public schools must attract and enroll students in order to obtain funding for capital expenses. Charter school teachers may choose to remain covered by the district's union, form their own union, or be independent. Teachers do not have to be certified and do receive full retirement benefits. All students in the state are eligible and there are no racial balance provisions or extra benefits given to schools that recruit "at-risk" students. Like all Arizona public schools, charter school students have to participate in statewide tests that track their academic progress.[127]

Since 1995, Arizona has become a laboratory for charter schools. In each of the last three years, Arizona's charter-school population has doubled. The Goldwater Institute predicts that the charter population will grow 50 percent each year between 1998 and 2001. By 2000, the charter school population will grow annually by more than 35,000 students, which will match the approximate number of new students in the state.[128]

Proponents praise charters for their ability to attract students. Between 1995 and 1998, 25,000 Arizona students enrolled in charters, roughly three percent of the public school population. Advocates were quick to point out that by 1998, Arizona, with one fiftieth of the nation's population, boasted about one third of its charter schools. By contrast, California, which passed its charter law in 1992, has eight times as many children under 18 than Arizona, yet Arizona boasts 100 more schools.[129] But these schools have experienced difficulties of their own.

There have been several high-profile stories of abuse in the state's charter system. In 1998, *The Tribune* of Mesa, Arizona, conducted a five-month investigation of charter schools in the state. The paper reported that some schools had already shut down because of mismanagement. The investigation found that because of an obscure section of the state's charter law, some charter operators were allowed to keep the land their charters occupied even after the schools were closed.[130]

The reports also found that several charter schools were operated by people with little or no college education, and some even had police records. Arizona law only requires that charter operators undergo a fingerprint and criminal background check. An aborted monitoring project by the State Department of Education found that 80 percent of Arizona charter schools were not complying with state and federal laws, or the terms of their contracts, for receiving public money.[131]

Many complained that it was difficult to keep track of charter performance. The new State Charter Schools Board, the existing State Board of Education, the State Department, and local school districts had difficulty communicating with one another, and some thought Arizona charter schools had replaced one bureaucracy with another. Mary Gifford, a member of the State Charter Schools Board and formerly its executive director, has complained state

agencies have done a poor job in coordinating with one another to get information out to the public, parents, and charter school operators and teachers.[132]

Superintendent Keegan and her department have come under fire for not conducting more thorough oversight of the state's charter schools. When the department official who oversaw the charter review process said in a speech that the majority of schools was not living up to various portions of their charters, she was promptly reassigned within the department and the report was never completed. The official, however, said she did not think Keegan was covering up charter shortcomings. Nevertheless, the superintendent was roundly criticized in the press and among critics for poor management of the state's charter system. Keegan claimed, "there should not have been an instance where there was a problem (with a charter school) and no one followed up on it."[133]

Ted Kolderie, a senior associate at the Center for Policy Studies at the University of Minnesota and the author of that state's pioneering charter school law, is critical as well. "Arizona's problem is its incentives," he says. "They're far too generous to would-be charter operators."[134] The State Board for Charter Schools agreed and, under pressure, endorsed several separate reforms in September 1998. The board advocated ending up-front stimulus funding. Under the original law, first year charters can receive one third of their budget before the school year begins. The board also endorsed curtailing the amount of capital funding charters can obtain from the state. Critics complained it was too easy for operators to get start-up money and that they should have to prove their credibility before gaining access to capital. Now, operators will have to make a stronger case to private investors for funding.[135]

The board also urged lawmakers to adopt vouchers, allow charters to set enrollment preferences, and eliminate the special accounting procedures set up specifically for charters. They also claimed school boards should be liable for schools they charter, a provision not in the original law. They resisted more extreme reform measures, such as one promoted by Democratic State Senator Mary Hartley, which would have outlawed for-profit operation of charter schools.[136] The board, however, has no power to change state law.

During the 1998-99 session, the legislature seemed to agree with many of the board's proposals. Many lawmakers have supported the establishment of a clearinghouse to disseminate information on charter schools, while others want to prevent financially- burdened districts from sponsoring charters.[137] Other reforms include banning districts from sponsoring schools outside their district and cutting the length of charters from 15 years to three or five, a move which was also endorsed by Governor Hull during the 1998 campaign.[138]

While the legislature endorsed a measure making it easier for schools to obtain facilities aid, the major charter reform bill that contained many of the State Boards' suggestions failed to win passage. Senator Hartley complained the package had been watered down by a slew of Republican amendments in the final days of the session, and did not go far enough in implementing meaningful reform. Mary Gifford, the Charter Schools Board member, also opposed the watered-

down bill. She said Arizona was trying to get away from its "wild, wild west" reputation when it came to charter schools. Gifford said the original reform package "preserved the autonomy and innovation in our law and provided oversight without being onerous."[139]

Taking the Good With the Bad

Jaime Molera is Governor Hull's executive assistant for education policy and previously served as chief of policy at the State Department of Education under Superintendent Keegan. Molera claims most of the reforms debated in the legislature "were based on perception as opposed to reality." They were "designed to fill perceived gaps in state law." Molera endorses ending start-up funding and thinks it has been too easy for charter operators to play loose with state money. Public funds should be distributed with the same discretion as loans, not as free money. Molera says the governor believes the new school finance system will force "charters and all schools to retain students because it pays them on a kid by kid basis." Molera also takes issue with the notion that the State Boards of Education and Charter Schools have stepped on each other's toes and have been ineffective in monitoring charters. He claims that Keegan "has kept them on board and on the straight and narrow."[140]

Molera explains that even though unions are weak, other interest groups have been effective in stunting charter growth. He points to the Arizona School Boards Association (ASBA), which has labeled the State Charter Schools Board reform package as a "privatization agenda."[141] The group endorses more extreme regulatory measures such as ending for-profit management of charters. In Tucson, the ASBA supported the city council's decision to amend municipal zoning requirements to prohibit the opening of any new charter not located on at least five acres or not having approved traffic patterns in place.[142] In another instance, the State Department of Education did not hand over information regarding charter progress until the ASBA filed suit, accusing the Department of withholding information more than a year after officials had completed their reviews.[143]

In March 1999, the Morrison Institute for Public Policy released a state-sponsored progress report on charter schools. The report found that while charter school parents and students are largely satisfied with the quality of education, there is evidence suggesting that charters are failing to increase academic performance. Those students enrolled in charters at the elementary level performed slightly better on statewide tests in reading, language, science, and math than their counterparts in regular public schools. Charters' academic advantage dissipated, however, as students entered junior high and eventually went on to high school, with regular public schools performing better as the grade level increased.[144]

The study also found that charters were increasingly stretched for resources and relied on parents and other non-school

Table 5.
Top Difficulties of Arizona Charter School Directors

%	Difficulty
22%	Funding Issues
15%	Staffing or Administrative Issues
15%	Facilities/Zoning or Expansion Issues
9%	Paperwork/Reporting Requirements
9%	Public Perceptions of Charters/Community Relations
6%	Special Education
5%	Concerns about Students

Source: Lori A. Mulholland, *Arizona Charter School Progress Evaluation* (Tempe: *Morrison Institute for Public Policy, 1999*), p. 25.

employees for assistance. When charter directors were asked about the three most significant difficulties in running their schools, they listed the following concerns.

As in California, Arizona charters are a new entrant in the public education market. There have been several adjustments and growing pains. Because of the state's unique labor laws and political orientation, the original charter legislation supplied schools with great autonomy. As time has elapsed, however, interest groups such as the Arizona School Boards Association and certain lawmakers have become more sophisticated in fighting charter expansion. Advocates claim that many reforms under debate would hurt charters. Limiting the length of charter terms would discourage private investment, while shifting liability to districts would make them less likely to sponsor schools.

To be sure, the existing law has certain shortcomings. Even charter advocates like Molera concede that the law makes it too easy for unproven charter developers to misuse public money. With the rapid expansion of charters onto the Arizona education scene, certain operators who probably should not have received charters slipped through the cracks.

Nevertheless, Arizona charters have spurred competition. In Mesa, a charter elementary school has opened that stresses a back-to-basics curriculum. Prior to the charter's opening, the local school district had a long waiting list for its two elementary schools that offered traditional curriculums. Now, it has opened a third, and plans are ready for a fourth. The district has even resorted to taking out ads in local newspapers, the Yellow Pages, and on movie theatre screens. "That's the nature of a marketplace," says District Superintendent James Zaharis. "You have to serve your client base."[145]

Despite the experience in Mr. Zaharis's district, Arizona charters still only enroll roughly four percent of the state's public school population. Harvard economist Caroline Hoxby claims the state would have to lose between six and nine percent to feel real pressure to compete.[146] Even if 10 percent of public school students enroll in charters, standard schools would still retain 90 percent of the student market share, hardly a competitive market. Standard public schools, unlike charters, continue to function and receive full funding even when they fail.

Molera thinks charters have the potential to be "the death-knell for unions and the public education bureaucracy." With more competition for students, public schools would not be assured a base of students, and districts would have to divert resources that they have spent on their own interests, like boosting teacher salaries and limiting class size, to attracting students.[147]

While Mr. Molera's observation is accurate, Arizona charters have encountered some obstacles. Even though unions are weak in Arizona, other anti-charter interest groups, such as the ASBA, have picked up the slack. To be fair, the original law provided some loopholes that encouraged abuse. Fixing these problems, while not hampering charter innovation and flexibility, has proven difficult. Despite the setbacks in Arizona and other states, nationwide interest in charters is growing within cities, the federal government, private business, and even teacher unions.

Chapter 4
Charter Schools and the Failure of Real Competition

The U.S. Department of Education's third annual *National Study of Charter Schools* issued some important findings. The number of charters continues to grow, with 361 new schools opening across the country in 1998. Overall, 32 schools have been closed across the country since 1991, but charters only enrolled 0.6 percent of public school students in the 23 states, plus the District of Columbia, that had schools up and running by June 1998.

The study found that most charters are newly created schools that are smaller than traditional public schools. Most charter schools are similar to their districts on student racial/ethnic and income level characteristics. There was no data suggesting charters disproportionately serve white and economically advantaged students, and in some states, including Texas, Michigan, and Massachusetts, they enroll significantly higher percentages of minority students than other public schools.[148]

Parents and students continue to be satisfied with the education they are receiving in charter schools. They point to charters' overall environment, academic program, and small class size as major reasons behind their popularity. The report also asked school developers to rank the most significant barriers to charter implementation.

Apart from academic accountability requirements, more than 90 percent of charter school operators reported significant barriers associated with regulations or resistance from public authorities, unions, or community members. Nevertheless, some critics point to inherent flaws rather than interest group meddling as the source of charter shortcomings. Richard Rothstein, a research associate of the Economic Policy Institute and a professor at Occidental College, contends that the principal problem with charter schools is the difficulty in evaluating accountability. Student achievement is only partially affected by school effectiveness. According to Rothstein, most of the variation is determined by students' social and economic backgrounds. Different tests emphasize different things and comparisons are difficult to make. Testing is expensive and not standardized; schools often cut corners, only requiring students to take portions of different examinations. Rothstein also concludes that "our lack of sophistication in test

Table 6.
Most Significant Barriers to Charter Implementation

% of schools reporting difficult barriers	Barriers
57.6%	Lack of Start-Up Funds
41.1%	Inadequate Operating Funds
38.6%	Inadequate Facilities
38.4%	Lack of Planning Time
23.1%	State or Local Board Opposition
18.3%	District Resistance or Regulations
18.2%	Internal Conflicts
14.8%	State Department of Education Resistance or Regulations
11.3%	Union or Bargaining Unit Resistance
10.4%	Health/Safety Regulations
9.7%	Accountability Requirements
9.0%	Bargaining Agreements
8.8%	Hiring Staff
6.9%	Community Opposition
6.3%	Federal Regulations
4.4%	Teacher Certification Requirements

Source: Paul Berman and others, eds., "National Study of Charter Schools: Second-Year Report," U.S. Department of Education, December 30, 1998. Available: http://www.ed.gov/pubs/charter98/execsum.html

score interpretation leads to illogical standards not only for charters but for all schools." He continues by saying that "to promise that all children will meet a standard must mean that the standard will be set so low that few children will be challenged by it."[149]

Rothstein points to the experience with the Bowling Green Elementary School, a Sacramento charter. Its charter promised to increase academic performance across the board. Since the school opened in 1993, however, the Sacramento school district has changed its testing policy three times. Because of the frequent changes, the district has tested different students at different grade levels in different subject areas. Trying to compare tests to come up with an objective measurement is impossible. As a result, Bowling Green only claims to have increased student performance in reading. Nevertheless, the school retains its charter.[150]

Testing and evaluating students' academic performance is controversial. Both Arizona and California students perform poorly on the National Assessment of Educational Progress (NAEP), and critics often point to poor test performance as one reason for charter reform. However, a 1998 study by the National Academy of Sciences suggests that NAEP tests are flawed because "cutoff points between achievement levels are consistently set too high." For example, while only two percent of all 12th graders scored at an advanced level on NAEP math tests in 1992, 3.8 percent of high school graduates received college credit for calculus on advanced placement tests during that same year. The previous year, American nine year-olds scored second on an international reading test conducted by the International Association for the Evaluation of Education. During the same year, only 30 percent of students in the same age group scored proficient on NAEP reading tests. The study found that scores have remained stable or risen slightly for most students over the last 20 years, although scores for minority students have risen dramatically. The Academy concludes that cutoff scores for basic and proficient students could be set lower, "resulting in a much larger number of students scoring above these cutoff points."[151]

A July 1998 *U.S. News and World Report* article focused on more charter shortcomings. The article found that charters had problems living up to the academic standards they set for themselves, and there were other problems. Arizona law did not force charters to use a

lottery to select students, so several schools were able to pick which students they wanted. The article also focused on charters with alternative curriculums, with specific reference to a school that specializes in African culture. Students study African culture and history almost exclusively. Many in the community question if the school has an academic mission, or is more interested in promoting separatism.[152]

A January 1999 report released by Arizona State University finds evidence of ethnic segregation in Arizona charter schools. According to the study, "nearly half of the charter schools exhibited evidence of substantial ethnic separation." While charters and regular public schools enroll similar numbers of African American and American Indian students, charter schools were typically 20 percent higher in white enrollment than other public schools. Latino students, the study said, were underrepresented in Arizona charters. Furthermore, those charters that enroll a majority of ethnic students tend to be focused on vocational education or are "schools of last resort."[153] Charter advocates maintain that parents *choose* these schools for their children. Different charters emphasize different curriculums. Schools should be judged on performance not racial breakdowns, advocates say.

Charter schools should test their students separately in order to see if they are meeting accountability requirements. If charters are to be deregulated, they should not be burdened with the same tests that poorly measure student performance in regular public schools. While there are some charters that seem to stress a political agenda over academic performance, it is not widespread and can be fixed largely with changes to state laws. To be sure, charter schools have some inherent problems, but their largest problem consists of interest groups that seek to limit their independence.

Unions and the Fight Against Deregulation

Charter schools are public education's equivalent of deregulation. As in other industries, unions can be expected to aggressively fight privatization efforts. MIT economist Nancy Rose analyzed wage responses to trucking deregulation to measure rent-sharing among unions. Her results indicate substantial declines in union wages as a consequence of reduced regulatory rents. According to Rose, "union premia over non-union wages fell from 50 percent to less than 30 percent." The decrease meant annual aggregate losses between $950 million and $1.6 billion. Rose claims, "the results suggest that union workers captured more than two-thirds of total industry rents under regulation and provide strong support for union rent-sharing hypotheses."[154]

While teacher unions would most likely balk at comparisons to the trucking industry, Rose's findings are relevant. Unions seek to secure rents for their members under regulation. If unions have to compete in a free market, they can no longer rely on regulation to provide them with inflated revenue. As the Rose study suggests, unions stand to lose money under deregulation. Therefore, it is not surprising to see why teacher unions do not support innovative charter schools.

At its 1997 convention, the NEA listed 21 criteria charters had to fulfill in order to get its endorsement. These included qualifications that charters not be home-based, employ licensed educators, and

accommodate "at-risk" and special education students. The NEA also said state law should cap the number of charters, actively involve local school boards, and include teachers in district collective bargaining agreements. Like district schools, charters should retain tenure for senior teachers. District finances should not be negatively affected by charters. Most important, "all state and local laws, policies, and regulations should be in effect for charter schools, with employees voting by a supermajority in an expedited process for exemption from or waiver of specified laws, rules, and regulations."[155]

The NEA has also invested $1.5 million over five years to develop five charter schools across the country. Currently, three of the five schools are running in California, Colorado, and Hawaii, respectively. An NEA charter was delayed in Arizona when state law was changed and invalidated one of the sponsors. A union-sponsored charter failed to win approval in Georgia, and met with resistance from local school boards when the site was moved to Connecticut. Eventually, the State Board of Education approved the charter.[156]

Nevertheless, many remain suspicious of the NEA's intentions. Peggy Story, who is helping to develop the NEA charter in Arizona, concedes there is a great deal of skepticism regarding union involvement. She claims many critics think it is the NEA's "intent to get inside and make the whole charter movement go away." Joe Nathan, Director of the Center for School Change at the University of Minnesota, offers a less cynical view. "It's about a powerful organization being encouraged by members and others to rethink their position," he says. "My experience is that organizations that want to survive, rather than become extinct or lose influence, rethink their points of view." In California, Democratic Assemblywoman Kerry Mazzoni is relieved that the NEA affiliate in San Diego is starting its own charter, though she is quick to point out that she doubts the CTA has had a "total conversion." According to Mazzoni, the CTA is still "evolving."[157]

In testimony before Congress, NEA President Bob Chase endorsed charter schools as "a positive vehicle for reform within public schools, depending on how they are developed, funded, structured, and governed." He claimed that "accountability to the public should be at the core of any charter school plan," and added "there needs to be adequate oversight by state departments of education." Furthermore, Chase said many charters were having trouble with "equity issues," and "were not sufficiently accommodating special education and non-English speaking students."[158]

The AFT also supports charter schools, but requires they meet a similar series of demands before gaining its endorsement. Charter school students should take the same tests as other students in the district and state. Employees should be covered by district collective bargaining agreements, charters should be required to hire certified teachers, and schools should have the approval of local school districts.[159] The AFT mildly supported the old California charter law, but was quick to point out that charters were not required to hire certified teachers.[160] The new law makes up for this oversight. The union blasts the Arizona law for not covering employees under collective bargaining agreements, not requiring certified teachers, and not connecting charters to local school districts.[161]

Unions are also critical of for-profit management of charter schools. According to a 1998 Center for Education Reform report, only six of 34 states with charter legislation allow schools to be "directly managed or operated by for-profit organizations." Several states that ban direct for-profit management still allow certain services to be contracted to private companies or permit schools to be managed by corporate bodies, but this is a limited policy.[162]

Raising the Red Flag: The Threat of For-Profit Schools

The NEA opposes for-profit schools, even though public education is already a multi-million dollar industry, with school bus companies, book publishers, food service providers, and many others relying on school districts for much of their revenue. Nevertheless, many charter advocates in California fear the CTA will lobby to ban for-profit management.

In March 1999, six Orange County school boards denied charters to two companies, Opportunities for Learning and American Charter Schools Inc. The companies complained they met stiff opposition from local officials. "Their attitude is they don't need us and we're trying to meddle in an area where they're doing all right," said Chuck Mitchell, Director of Administration for American Charter Schools Inc. School officials and many community members complained the companies' tactics were too intrusive and did not involve local groups. "This is not what we expected of charter schools," complained Margaret LaRoe, deputy superintendent of Capistrano Unified. "We expected idealistic parent groups to come forward with better ideas to run schools, people with home-grown ideas."[163]

The Edison Project is the market leader in the for-profit education industry. Founded in 1991, the company ran 51 schools, most of them charters, in 12 states during the 1998-99 academic year, enrolling approximately 24,000 students. Edison is set to expand to 77 schools serving 37,000 students this year. The company has yet to turn a profit, but recently announced plans to offer $172.5 million worth of stock. Teachers would be eligible for stock options as a portion of their salary. During the last year, Edison raised $232 million, including a $71 million investment from Microsoft co-founder, Paul Allen.[164]

According to Edison, 60 percent of its students are eligible for the federal government's free or reduced price lunch program, and roughly 65 percent of its students are African American or Latino.[165] Edison has invested more than $70 million in its schools, and spends on average $3,000 per pupil per year. Ninety percent of Edison parents gave their schools A or B ratings. According to Edison, 77 percent of its students improved on standardized tests the company administered between 1995 and 1997. The average annual percentage gain on criterion-referenced tests for Edison students was six percent. On NAEP tests for all public school students age nine to 13, the average annual percentage gain in reading was negative one percent. The percentage improved slightly in math, totaling zero percent.[166] Nevertheless, critics have attacked Edison's performance.

The AFT highlights several features of the Edison program that it views as dangerous, including "reliance on novice teachers, high teacher turnover, and large class size." The union complains that Edison charters are really magnet schools, attracting students with motivated parents. It accuses Edison charters of being selective in admitting students, with the number of free-lunch students declining over time. The AFT points to this phenomenon as the main reason behind Edison's academic success: Students from better socioeconomic backgrounds score higher on standardized tests.[167]

The union claims that even though Edison spends less per pupil and has higher test scores, its students receive outside assistance from parent organizations, foundations, and other groups. The AFT also casts doubt on whether Edison students are performing as well as the company claims, and hired an outside researcher to look at reading proficiency in several Edison schools at the K-3 grade level. The researcher found that compared with a control group, Edison students did not outperform standard public school students and scored at similar levels.[168]

Unions and other interest groups have been effective in fighting off Edison and other for-profit education companies. Very few states allow for-profit management of their public schools, and many limit the degree of outsourcing services to private companies that can occur. Across the nation, charter schools have had difficulty getting off the ground. Less than one percent of the nation's public school students attend charters, and many states have had trouble creating autonomous systems. Charters were meant to be deregulated and decentralized from the public school bureaucracy, but many states bind charters to districts and state agencies for funding and oversight. Acquiring capital for start-up costs continues to be a serious problem, and many charters have to apply for waivers from individual rules and regulations.

The Federal Role

A 1998 General Accounting Office (GAO) report examined the relationship between the federal government and charter schools. Two-fifths of the charters surveyed received Title I funding from the U.S. Department of Education. Title I is reserved for schools that serve primarily poor students. The study found that the majority of charters who applied for Title I funding received it. The GAO report also found that slightly more than half of the schools surveyed received fiscal year 1996 start-up grants from the federal government, at an average of $36,000. The Department of Education and state governments are working on ways to improve access to federal funds, and provide technical assistance and training to charter operators.[169]

Despite the GAO's findings, problems remain. In testimony before Congress, Eric Rofes, a researcher at the University of California at Berkeley, concluded that the impact of charters on school districts were felt in several ways, including loss of students and financing. He found that districts have yet to respond with swift and dramatic improvements in order to compete with charters. He recommended that "charter advocates, union activists, and

other leaders develop an urban strategy for charter schools, and work energetically to achieve systemic improvement."

Overall, Rofes found that the charter movement is disorganized and has yet to trigger significant responses from local school boards and other officials.[170] There is a divide between what charters were meant to accomplish in theory and what they have been able to do in operation. The experience in one state illustrates this principle.

The Shortfalls of Planned Competition

During the 1970s, the Minnesota State Legislature devised a competitive-planning scheme in the Minneapolis-St. Paul area in order to come up with an efficient means of public transport. The legislature believed that by setting up two public entities to compete against one another, it could keep costs to a minimum and ensure that the final proposal would be economical. The legislature empowered both the Metropolitan Transit Commission (MTC) and the Metropolitan Planning Commission to draft competing plans. Despite high hopes, the competitive arrangement never met expectations.

The MTC and planning commission's staffs frequently bickered and never really forced each other to come up with economical and efficient proposals. The two boards originally devised plans for a rail system, but these plans were dropped in favor of a traditional bus system several years later. Jonathan Bendor, currently a professor at Stanford Business School, observed, "redundancy in the region's transit planning was doomed from the beginning."[171]

The late Jeffrey L. Pressman and Aaron Wildavsky, former researchers at UC-Berkeley, studied the impact of a series of programs run by the federal Economic Development Administration (EDA) in Oakland during the 1970s. As in the Minnesota experience, there were several problems with implementation of the EDA's plans. Pressman and Wildavsky observe that the Oakland plan sought to circumvent the federal bureaucracy and come up with an independent plan. They conclude that the "price of this independence is a plural form of executive, which is an open invitation for a diversity of interested parties to demand representation." The result may be "watering down of the original ideas, internal conflicts, and worst of all the very delays that independence sought to avoid." Further, "the cost of independence from the ordinary bureaucratic constraints turns out to be the loss of contact with the very political forces necessary to preserve the thrust of the organization."[172]

Circumventing bureaucracy "is not a panacea for program woes." Decentralization often gives rise to more subtle bureaucracy. Interest groups fight implementation of "new organizations, if only because they prefer known evils." Pressman and Wildavsky conclude that "creating a nonbureaucracy within a bureaucracy was strictly a one-time short run theory, no one expected it to last." More important, they reveal that the "creation of an anti-bureaucratic unit and the concerted efforts of nonbureaucratic men may be able to get a program launched; but as we have seen, launching is not enough."[173]

Like the competitive public transit scheme in Minnesota, charter schools try to spur competition from within the public sector. As with

the Minnesota experience, however, charters have had trouble getting off the ground. Public authorities have fought one another and state legislatures have often been less than helpful. In California, the original law stunted charter growth, and Pressman and Wildavsky's observations are also relevant.

Charter schools are decentralized public schools. They are an attempt to set up a non-bureaucratic unit within a larger bureaucracy. As Oakland learned in its EDA experience, merely getting an innovative idea off the ground is not sufficient. In some states, charter schools have created their own bureaucracy. The Arizona Charter Schools Board was created overnight and many complain the new board, the existing State Board of Education, the State Department of Education, and local authorities have had trouble coordinating their efforts. Powerful interest groups, such as the California Teachers Association and their allies in state government, have fought the implementation of autonomous charter schools and tried to water down legislation. Recent amendments to California law straitjacket innovative home study and distance learning charters.

Pressman and Wildavsky's most important observation from the EDA experience in Oakland was that "implementation should never be divorced from policy." They go on to add that the experience has taught them that the "designers of policy should consider more direct means of accomplishing their desired ends."[174] Their conclusions have profound implications for charter schools. As before mentioned, charter schools seek to spur competition from *within* the public sector. While the idea has merit, it is very difficult to accomplish. Interest groups have shown they are effective in watering down legislation and stunting charter growth. As Wildavsky and Pressman suggest, reformers should consider a more direct means of spurring competition.

Finding a Better Way

John Chubb and Terry Moe, authors of the influential book *Politics, Markets, and America's Schools*, believe that in order to improve public education, "public authority must be put to use in creating a system that is almost beyond the reach of public authority." States must "withdraw authority from existing institutions and build a new system in which most authority is vested directly in the schools, parents, and students."[175] Chubb and Moe stop short of directly endorsing vouchers, public money given to parents to send their children to the school of their choice, but many others have taken up the idea.

While charter schools enjoy near universal political support in theory, vouchers remain a divisive issue, though they are gaining national support. Both the NEA and AFT oppose vouchers, as does President Clinton, most Democratic lawmakers, and some Republicans. In May 1998, the president vetoed a voucher bill that would have provided $3,200 each for up to 2,000 of the poorest students in the District of Columbia's public schools.[176] Just a few months earlier, the entire federal budget for the nation's capital was held up when congressional Republicans included a similar voucher proposal. They eventually backed down and removed the measure under threat of a Clinton veto and Democratic filibuster in the Senate.

Aside from Arizona, Republican governors have pushed vouchers in New Mexico, Texas, Florida, Pennsylvania, and several other states. In most instances, they have met stiff opposition from Democratic legislators, interest groups, and factions within their own party. In New York, Republican Mayor Rudy Giuliani has spearheaded a voucher plan for the poorest students in the city's public schools. Many on the school board remain unconvinced, however, and the city's schools chief adamantly opposes the idea. Some voucher proposals cover the full cost of tuition at private or parochial schools, while others cover a portion of the cost. Most proposals would only include a small fraction of eligible students, those that fall well below the poverty level.

In June 1999, Florida Governor Jeb Bush signed innovative legislation, overhauling that state's public-school system. The measure, passed by a GOP legislature, boosts funding for public schools by $750 million, ends social promotion, and significantly raises teacher standards. The legislation also forces schools to be graded on a yearly basis for performance.

Students who attend schools that receive failing grades for two years in any four-year period will either be able to attend a better performing public school or be eligible to receive opportunity scholarships to attend private schools.[177] While the Florida law, establishing the first statewide parental choice system, has just been implemented, two other voucher programs are already running in Milwaukee and Cleveland.

Vouchers In Action

The Wisconsin legislature passed the Milwaukee plan back in 1990, and it has been extensively studied since then. Originally, private schools had to limit the number of voucher students to 49 percent of total enrollment. Only one percent of all students in Milwaukee public schools could receive vouchers, and Catholic and other religious schools were not allowed to participate in the program.[178]

In 1995, the legislature amended the program and allowed religious schools to accept voucher students. The cap on public schools students allowed to participate was lifted to 1.5 percent and schools could now have up to 65 percent of their enrollment accepting vouchers. In 1996-97, students enrolled in the Milwaukee Parental Choice Program (MPCP) received $4,200, the per-pupil funding amount the state spends on students in Milwaukee public schools. In order to be eligible, students must come from families 1.75 times below the poverty level.

The Milwaukee plan was challenged in state court immediately. The Wisconsin State Supreme Court upheld the statute on a close ruling in March 1992. When the program was expanded in 1995, opponents took the plan to court once again. The State Supreme Court upheld the provision, and the U.S. Supreme Court refused to hear the case in November 1998.[179]

The legislature appointed University of Wisconsin political scientist John Witte to study the effectiveness of the program. His findings have been mixed. He reports that enrollment has increased

steadily, but never reached the maximum allowed by state law. Witte claims enrollment in choice schools is not even, with African American and Latino students accounting for a lopsided proportion of seats. Most important, Witte finds that academic improvement is tenuous at best. There are simply not enough students enrolled to make a statistically meaningful comparison to the regular public school population. He directly challenges the notion that if minority students stay in the program long enough, they realize more than a 10 percent linear gain on previous reading and math tests in the third and fourth year when compared to their white counterparts in public school. Witte dismisses "the proclamation that the MPCP could be a vehicle for reducing the gap between white and minority students by a very large amount." He claims the "ten point miracle is so fragile that such pronouncements are frivolous." He claims the difference between minority choice students and white students in public schools is a statistically insignificant six points. Witte does, however, support a limited voucher program on the grounds that the subsidies voucher students provide, "allowed several schools to survive and later flourish."[180]

According to a group of researchers led by Harvard political scientist Paul Peterson, the Milwaukee voucher plan clearly benefits students enrolled in the program. There is a statistically significant positive relationship between vouchers and increased academic performance among participating students. Peterson's team finds that choice students performed only slightly better in mathematics in the first three years of the program. After this initial period, however, students in choice schools scored five percentage points higher than all Milwaukee public school students. After four years, choice students scored 10.7 points higher than the control group, comprised of MPCP and public school students. Peterson's team found that "differences on reading tests were between two and three percentile points for the first three years and increased to 5.8 percentile points," with results for the third and fourth year being statistically significant, when they are estimated together.

The team concluded that the Milwaukee voucher experiment "suggests that privatization in education may result in efficiency gains." They acknowledge that observers should be cautious about generalizing the Milwaukee findings. For example, efficiency gains may not be as pronounced in suburban school districts where competition is greater.[181]

In another paper, Peterson is critical of Witte's findings. He focuses on Witte's control group, whose test scores were statistically comparable to the choice students. Peterson complains that the control group "is nothing other than a cross-section of all students attending Milwaukee public schools, a population that differs from choice students in race, ethnicity, income, and prior educational achievement." He maintains that if the control group were randomly selected, there would be statistically significant differences between the two samples, with choice students outperforming their public school counterparts.[182] He also criticizes Witte's findings that choice schools suffered from unusually high student turnover rates during the school year.

Peterson claims the turnover among Milwaukee low-income public elementary students stands at 34 to 37 percent, 12 percent

higher than low-income choice elementary students. Nevertheless, many choice students are leaving at the end of the year. According to 1992 census data, "the residential mobility rate for the population from which choice students come varies somewhat between 18 percent and 52 percent." Currently, there is a 35-percent turnover rate for low-income public elementary schools. According to Peterson, the year-to-year turnover rate for choice elementary schools is 50 percent below this level. Even if Witte's findings were correct, Peterson concludes, choice schools are achieving similar academic results with public schools at half the cost.[183]

Witte sticks to his findings, claiming that Peterson uses models that "are inappropriate for measuring educational achievement." But he also resorts to questioning Peterson's intentions. "Who is funding, backing, and promoting this research?" Witte asks. "Is their ultimate aim to widen the group of families whose children attend private schools."[184] But despite Witte's criticism, Milwaukee parents and voters continue to support vouchers.

In April 1999, all of the anti-voucher school board members who were backed by the local union lost at the polls. Of the nine board members, seven now support vouchers. Leading up to the election, the Milwaukee Teachers Education Association attacked incumbent John Gardner, an at-large board member who supports vouchers, spending $500,000 on a TV and print campaign. Nevertheless, Gardner carried the election with 60 percent of the vote.[185] The Milwaukee public school system sought to compete with vouchers' popularity by promising to give free laptop computers to the city's high school students.

In June 1999, Peterson released a study detailing the effects of Cleveland's two-year-old voucher program. Like Milwaukee, choice students realized higher academic gains. Peterson found that in two Cleveland choice schools, students' reading scores "gained 7 percentile points relative to the national norm," while these same students improved 15 percentile points in math. In both subject areas, the bulk of student improvement occurred in the first year.[186]

Toward Full and Free Choice

These events have lent strength to the argument that educational choice is both a civil-rights issue and the direction the nation must take to secure a better future for its children. Diane Ravitch, former U.S. Assistant Secretary of Education in the Bush administration, sums up the problem. "As long as you have a system in which 90 percent of the kids are in that system," she says, "there's no interior reason to change."[187] Charter schools seek to change the system from inside. But as history shows, such reforms stand little chance of success.

The short history of charter schools has shown that public school officials and interest groups are quite adept at controlling reform. Only when reform is taken out of their hands, and they are forced to compete in a free market for students and funding, will significant change take place.

While most states have charter laws, very few of them have set up autonomous systems. According to a 1998 Center for Education

Reform report, of the 22 states with "strong charter laws," 14 of them relied on Republican governors to push bills through legislatures that were often controlled by the opposite party.[178] Charter laws were often watered down in the process, limiting their effectiveness.

While charter laws in some states have been weakened and student performance has yet to markedly improve, the Milwaukee and Cleveland experiments suggest a different trend for vouchers. In a city and state with a strong union presence, the Milwaukee voucher plan has expanded under state law, rather than shrunk. Originally, the type of school that was able to participate was limited. Schools could only accept so many voucher students, and they could take very few children from the city's public schools. Over time, Catholic schools have been included in the program and caps on students have risen. In 1990, choice schools enrolled 341 students – the program has now been expanded to 8,000 pupils.[180] Unions and other vouchers foes have been unable to stem the tide. Critics claim that foes will be able to impose various regulations on schools that accept voucher students, but the recent school board elections in Milwaukee suggest that voters have little tolerance for those who seek to curb the growth of the voucher movement.

While the Cleveland experiment is relatively new, its short history has important implications. According to Peterson, students in Cleveland choice schools have taken less time to realize academic gains than in the Milwaukee model. Since the Cleveland plan was implemented, several new schools have been established, suggesting greater parental choice will increase the number and types of schools that children can attend.

To be sure, charter schools should, and will, play an important role in the education market of the 21st century. Different types will flourish, from charters run by companies like Edison, to home schools. But they will not flourish on their own. Vouchers and similar proposals that offer greater choice and competition will have to drive education reform. Undoubtedly, the going will be tougher in some states than others.

A voucher law might be on the political horizon in Arizona. Based on the Proposition 174 experience in California and recent legislative action, the CTA and other powerful interest groups will continue to marshal their clout to fight educational choice in the Golden State. In the meantime, states should avoid reforms that are politically easy and popular with the education establishment. Class-size reduction, for example, is fashionable but its efficacy remains dubious.

Market principles have been applied to a wide range of government programs and have made American higher education a success. The time has come for their expansion into elementary and secondary education. While charter schools incorporate some of these concepts, the experience to date suggests they are too easily manipulated and controlled by interest groups. Lawmakers and officeholders must invest considerable political capital in making vouchers, competition, and improved performance a reality. The limited experiments with parental choice in education through vouchers has brought gains in efficiency and improved academic performance. It is time to implement choice on a wider, national scale.

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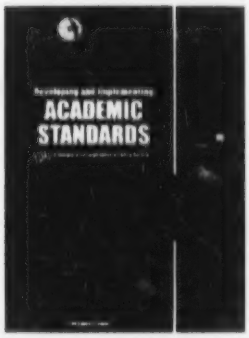

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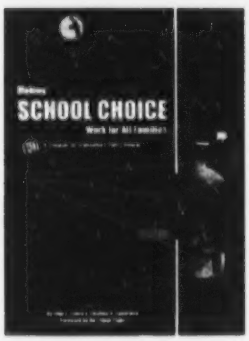

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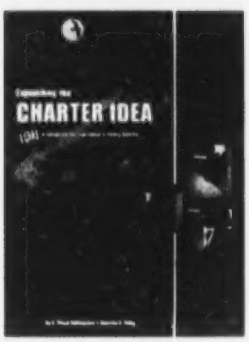

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